



TOWN OF LOXAHATCHEE GROVES

TOWN COUNCIL MEETING AGENDA

TUESDAY, DECEMBER 3, 2013 @ 7:00 P.M.

*Mayor David Browning (Seat 4)*

*Vice Mayor Ron Jarriel (Seat 1)*

*Councilman Tom Goltzené (Seat 5)*

*Councilman Ryan Liang (Seat 3)*

*Councilman Jim Rockett (Seat 2)*



# Town of Loxahatchee Groves

## Town Council Meeting

Tuesday, December 3, 2013 at 7:00 p.m.

Loxahatchee Groves Water Control District, 101 West "D" Road

Mayor David Browning (Seat 4)  
Vice Mayor Ronald D. Jarriel (Seat 1)  
Councilman Tom Goltzené (Seat 5)  
Councilman Ryan Liang (Seat 3)  
Councilman Jim Rockett (Seat 2)

Town Manager Mark Kutney  
Town Clerk Susan A. Eichhorn  
Town Attorney Michael D. Cirullo, Jr.

Tentative  
Subject to Revision

### PUBLIC NOTICE/AGENDA

#### 1. OPENING

- a. Call to Order & Roll Call
- b. Pledge of Allegiance & Invocation – Mayor Browning
- c. Approval of Agenda

#### 2. CONSENT AGENDA

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: **November 5, 2013** and **November 19, 2013**

#### 3. PUBLIC COMMENT

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**Town Council Agenda**  
**12/03/2013**

#### 4. PRESENTATIONS

- a. Proclamations presented to Farmer's Daughter Garden Center and to Everglades Farm Equipment for their community participation, helping the Town of Loxahatchee Groves and the Literacy Coalition of Palm Beach County "*Read for the Record*" - *OTIS* by Loren Long.
- b. Presentation by F. Martin Perry of Perry & Taylor, PA concerning "B" Road improvements.

#### 5. COMMITTEE REPORTS –

- a. Finance Advisory & Audit Committee (FAAC) Report and Approval of the October 2013 Financial Reports – (*Committee Member Virginia Standish*)

#### 6. RESOLUTIONS

- a. **RESOLUTION 2013-17: (2014 Municipal Election including attachment of Agreement with Supervisor of Elections)**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, DESIGNATING THE DATE, TIME AND PLACE TO QUALIFY AND FILE FOR THE OFFICE OF TOWN COUNCIL MEMBER FOR SEAT 5 PRIOR TO THE MUNICIPAL GENERAL ELECTION TO BE HELD ON TUESDAY, MARCH 11, 2014, PURSUANT TO THE TOWN CHARTER AND CHAPTERS 97 – 106, FLORIDA STATUTES; THE ELECTION FILING PERIOD OPENS PROMPTLY AT 12:00 NOON ON JANUARY 28, 2014 AND CLOSSES PROMPTLY AT 12:00 NOON ON FEBRUARY 4, 2014; SETTING FILING FEES; AUTHORIZING THE TOWN CLERK TO APPOINT ELECTION BOARDS FOR ELECTION PRECINCT 6094; AUTHORIZING THE SUPERVISOR OF ELECTIONS TO CONDUCT THE TOWN ELECTION AND APPROVING THE AGREEMENT BETWEEN THE TOWN AND THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS FOR ELECTION SERVICES; AUTHORIZING THE TOWN CLERK OR DESIGNEE TO HANDLE CERTAIN ELECTION MATTERS; OPTING OUT OF EARLY VOTING; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

b. **RESOLUTION 2013-18: Dedication of Right-of-Way Easement**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, SUPPORTING THE LEGISLATION REQUESTED BY THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT TO PROVIDE FOR THE DEDICATION OF RIGHT-OF-WAY EASEMENTS TO THE PUBLIC; PROVIDING THAT COPIES OF THIS RESOLUTION BE FORWARDED TO THE PALM BEACH COUNTY LEGISLATIVE DELEGATION, THE PRESIDENT OF THE FLORIDA SENATE, AND THE SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES; AND PROVIDING FOR AN EFFECTIVE DATE.

c. **RESOLUTION 2013-19: Dedication of Canal Maintenance Easements**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, SUPPORTING THE LEGISLATION REQUESTED BY THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT TO PROVIDE FOR THE DEDICATION OF CANAL MAINTENANCE EASEMENTS TO THE DISTRICT AND THE USE OF SUCH FOR RECREATIONAL TRAIL PURPOSES; PROVIDING THAT COPIES OF THIS RESOLUTION BE FORWARDED TO THE PALM BEACH COUNTY LEGISLATIVE DELEGATION, THE PRESIDENT OF THE FLORIDA SENATE, AND THE SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES; AND PROVIDING FOR AN EFFECTIVE DATE.

7. PUBLIC HEARINGS

a. **ORDINANCE NO. 2013-11 – 1<sup>ST</sup> READING: Historical Legacy**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO HISTORICAL LEGACY USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 75-035,

ENTITLED “USES AS OF OCTOBER 1, 2006” TO ADD THE TERM HISTORICAL LEGACY TO THE SECTION TITLE; TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO REQUIRE THAT THE PROPERTY ON WHICH THE USE IS LOCATED SHALL HAVE BEEN OWNED AND SUBJECT TO A HOMESTEAD EXEMPTION IN THE NAME OF THE OPERATOR OR HIS OR HER DIRECT RELATIVE RELATED BY BLOOD OR MARRIAGE ; TO REQUIRE THAT THE USE DOES NOT PRESENT A THREAT TO PUBLIC HEALTH; TO REQUIRE THAT THE USE HAS NO HISTORY OF CODE VIOLATIONS OR THE USE HAS BEEN BROUGHT INTO CODE COMPLIANCE; TO REQUIRE THAT THE OWNER-OPERATOR SUBMIT AN AFFIDAVIT STIPULATING TO COMPLIANCE WITH CERTAIN CONDITIONS; AND TO REQUIRE REVIEW AND INSPECTION BY THE TOWN; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

b. ORDINANCE NO. 2013-06 – 2<sup>ND</sup> READING: Amending Town Code  
Special Exceptions

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO SPECIAL EXCEPTION USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 10-015, ENTITLED “DEFINITIONS” TO DEFINE “TEMPORARY EVENT,”; TO AMEND SECTION 20-015, ENTITLED “PERMITTED USES” (AGRICULTURAL RESIDENTIAL DISTRICT), TO REMOVE THE SPECIAL EXCEPTION REQUIREMENT FOR COMMERCIAL EQUESTRIAN OPERATIONS, ADD RODEO EVENTS AS A PRINCIPAL USE WITH SPECIAL EXCEPTION AND TEMPORARY EVENTS AS AN ACCESSORY USE WITH SPECIAL EXCEPTION APPROVAL, AND TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO AMEND SECTION 25-015, ENTITLED “PERMITTED USES” (COMMERCIAL LOW AND COMMERCIAL LOW OFFICE DISTRICTS), TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN PRINCIPAL USES; TO AMEND SECTION 30-015, ENTITLED “PERMITTED USES” (INSTITUTIONAL AND PUBLIC FACILITIES DISTRICT) TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO AMEND SECTION 115-01,

ENTITLED "TABLE OF PUBLIC NOTICE REQUIREMENTS" TO PROVIDE NOTICE REQUIREMENTS FOR THE DIFFERENT CATEGORIES OF SPECIAL EXCEPTIONS; TO AMEND ARTICLE 170, ENTITLED "SPECIAL EXCEPTION USES" TO DEFINE THE CATEGORIES FOR SPECIAL EXCEPTION REVIEW, AND TO PROVIDE FOR THE APPLICATION REQUIREMENTS, REVIEW PROCEDURES AND RELATED MATTERS FOR THE CATEGORIES OF SPECIAL EXCEPTION REVIEW; TO AMEND ARTICLE 120, ENTITLED "QUASI-JUDICIAL HEARINGS," SECTION 120-015, ENTITLED "QUASI-JUDICIAL MATTERS" TO SPECIFY THE SPECIAL EXCEPTIONS THAT ARE CONSIDERED QUASI-JUDICIAL MATTERS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

c. **ORDINANCE NO. 2013-07 – 2<sup>ND</sup> READING: Operating Golf Carts**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE OPERATION OF GOLF CARTS ON PUBLIC ROADS WITHIN THE TOWN; PROVIDING FOR LEGISLATIVE FINDINGS; AUTHORIZING THE OPERATION OF GOLF CARTS ON PUBLIC ROADS OVER WHICH THE TOWN HAS TRAFFIC CONTROL JURISDICTION PURSUANT TO SECTION 316.212, FLORIDA STATUTES; CONFIRMING THAT GOLF CARTS MAY NOT BE OPERATED ON OR ACROSS CERTAIN PORTIONS OF FOLSOM ROAD, OKEECHOBEE BOULEVARD AND SOUTHERN BOULEVARD THAT LIE WITHIN THE TOWN; PROHIBITING THE OPERATION OF GOLF CARTS BY UNLICENSED DRIVERS; LIMITING THE NUMBER OF RIDERS ON GOLF CARTS; PROVIDING FOR IMPLEMENTATION OF THIS ORDINANCE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

8. ADMINISTRATIVE UPDATE – *Town Manager Kutney*

- a. State Road 7
- b. Okeechobee Boulevard/D Road Traffic Signal
- c. Fox Trail
- d. Budget Amendment Update

## 9. OLD BUSINESS

- a. Minto West Land Use Amendment and Rezoning (Discussion will be in conjunction with Attorney General Opinion (AGO) during Town Attorney Comments).
- b. Vacant Registry (Brochure will be provided either in the Council boxes or on the dais)
- c. Resurfacing with North Florida Emulsions re Bryan, Compton, and Marcella Roads along with related procurement issues (Backup provided)
- d. ULDC (Unified Land Development Code Review Committee) (Agenda Report provided)
- e. Replacement of culvert at Compton Road and F Road (No back-up, Vice Mayor Jarriel)

## 10. NEW BUSINESS

- a. Amendment to General Engineering Services Contract
- b. Sirdar Trucking Company Contract Invoices – Settlement of \$31,103.60

## 11. CLOSING COMMENTS

- a. Public
- b. Town Attorney
  - Attorney General Opinion (AGO) regarding definition of surrounding property
- c. Town Council Members

## 12. ADJOURNMENT

**The next regular Town Council Meeting is scheduled for January 14, 2014**

**Comment Cards:** Anyone from the public wishing to address the Town Council must complete a Comment Card before speaking. This must be filled out completely with your full name and address and given to the Town Clerk. During the meeting, before public comments, you may only address the item on the agenda in which is being discussed at the time of your comment. During public comments, you may address any item you desire. Please remember that there is a three (3) minute time limit on all public comment. Any person who decides to appeal any decision of the Council with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose, may need to ensure that a verbatim record of the proceedings is made which included testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk's Office (561-793-2418), at least 48 hours in advance to request such accommodation.



**Item 2 a.**

**Invoice From Goren, Cherof, Deedy & Ezrol, P.A.**

**Item 2 b.**

**Minutes: November 5, 2013 / November 19, 2013**

GOREN, CHEROF, DOODY & EZROL, P.A.  
 Attorneys at Law  
 3099 East Commercial Boulevard  
 Suite 200  
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 Telephone (954) 771-4500

TOWN OF LOXAHATCHEE GROVES  
 14579 Southern Boulevard  
 Suite 2  
 Loxahatchee Groves FL 33470

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 11/26/2013  
 ACCOUNT NO: 1574-0702400R  
 STATEMENT NO: 87

Attn: Mark Kutney, Town Manager

General Matters

*MDC*

			HOURS
10/29/2013	MDC	Review agenda materials for 11/05 meeting; telephone conference with MK; prepare resolution re: acceptance of deeds, revise OIG agreement; telephone conference with S. Eichhorn on agenda matters.	1.60
10/30/2013	MDC	Review materials for 11/05/13 agenda.	0.40
10/31/2013	MDC	Review status of pending agenda items; correspond with MK on issues with easements, equestrian trails (Wellington).	0.50
11/04/2013	MDC	Review agenda materials for 11/05 meeting; review additional information, correspond with MK, JF, SE on agenda materials, telephone call with JF on agenda materials fir Special Exception ordinance.	1.70
11/05/2013	DJD	Telephone conference with commissioner regarding roads.	0.40
	MDC	Miscellaneous telephone calls with Council, MK, JF; review agenda materials; prepare for, attend Council meeting.	7.60
11/06/2013	MDC	Review items from council meeting; correspond with MK.	0.60
11/07/2013	MDC	Review correspondence on pending items.	0.30
11/08/2013	MDC	Telephone call with BG on road issues; telephone call with MK on follow-up from 11/5 meeting.	0.90
11/11/2013	MDC	Review correspondence on 13 Place North; prepare resolution re: ULDC Committee; telephone call with JF on PZ Board items,	1.20
	BAM	Review RFQ for engineering, traffic engineering and land surveying services and contracts for current Town vendors for any issues involving expansion of work and means for doing so; legal research re: CCNA and any prohibitions on extending services to one vendor; draft memorandum to MDC re: findings.	2.60
11/13/2013	MDC	Telephone call with MK on pending items; review materials on surveys; telephone call with RG on fence permitting issues; telephone call with MK on amendment to Engineering Agreement; confer with BM on preparation of documentation.	1.20
	BAM	Conference with MDC re: amendment to engineering services contract; telephone call with Mark Kutney, Town Manager re: same; draft proposed	

General Matters

		HOURS		
amendment to engineering services contract.		2.10		
11/14/2013	MDC Phone conference with JF re: historical legacy ordinance, provide comments, review materials for 11/19 meeting.	0.50		
11/15/2013	MDC Miscellaneous telephone calls on pending items, procurement; review Historical Legacy materials; provide count to JF; review issues with recording of liens.	0.90		
11/18/2013	MDC Review agenda materials for 11/19 meeting; miscellaneous telephone calls with Council.	0.80		
	BJS Review and summarize selected legislative bills for MDC review.	0.20		
11/19/2013	MDC Review materials; prepare for, attend council meeting; miscellaneous telephone calls on pending matters with MK, council members.	4.20		
11/20/2013	MDC Review items from 11/19 Council meeting; review election resolution; telephone call with Council member.	0.80		
11/21/2013	BAM Telephone call with Mark Kutney, Town Manager, re: amendment to engineering contract; Review RFQ re: flexibility issues; Conference with MDC re: same.	0.70		
11/22/2013	MDC Review materials for 12/03/13 meeting.	0.30		
11/25/2013	MDC Review agenda materials, correspondence relating to 12/03 meeting.	0.50		
FOR CURRENT SERVICES RENDERED		30.00	<u>5,550.00</u>	

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
D.J. DOODY	0.40	\$185.00	\$74.00
MICHAEL D. CIRULLO	24.00	185.00	4,440.00
BRIAN J. SHERMAN	0.20	185.00	37.00
BRAM A. MARAVENT	5.40	185.00	999.00

COPYING COST	132.65
TOTAL EXPENSES THRU 11/26/2013	<u>132.65</u>
TOTAL CURRENT WORK	5,682.65
BALANCE DUE	<u>\$5,682.65</u>

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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TOWN OF LOXAHATCHEE GROVES  
 14579 Southern Boulevard  
 Suite 2  
 Loxahatchee Groves FL 33470

ACCOUNT NO: 1574-1004800R  
 STATEMENT NO: 16

Attn: Mark Kutney, Town Manager

Equestrian Partners Land Use Amendment (Solar  
 Sportsystems, Inc.)

			HOURS	
10/29/2013	MDC	Review draft of conditions, provide comments to JF; telephone conference with JF, MK on conditions, status of items.	0.90	
10/31/2013	MDC	Review issues with conditions of approval, telephone conference with JF and MK re: status of materials for 11/05/13 meeting.	0.30	
11/04/2013	MDC	Review staff report, materials for 11/05 meeting.	0.40	
11/05/2013	MDC	Review materials; prepare for first public hearing.	0.30	
11/06/2013	MDC	Correspond with MV at LGWCD on issues with B Road Agreement.	0.20	
11/18/2013	MDC	Review initial draft of B Road Agreement.	<u>0.30</u>	
		FOR CURRENT SERVICES RENDERED	2.40	<u>444.00</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	2.40	\$185.00	\$444.00

TOTAL CURRENT WORK 444.00

BALANCE DUE \$444.00

*MDC*

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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TOWN OF LOXAHATCHEE GROVES  
 14579 Southern Boulevard  
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 Loxahatchee Groves FL 33470

ACCOUNT NO: 1574-1004840R  
 STATEMENT NO: 22

Attn: Mark Kutney, Town Manager

Loxahatchee Groves Commons

		HOURS	
10/29/2013	MDC Review draft of conditions, provide comments to JF; telephone conference with JF, MK on conditions, status of items.	0.90	
10/31/2013	MDC Review issues with conditions of approval, telephone conference with JF and MK re: status of materials for 11/05/13 meeting.	0.30	
11/04/2013	MDC Review staff report, materials for 11/05 meeting.	0.40	
11/05/2013	MDC Review materials; prepare for first public hearing.	0.30	
11/06/2013	MDC Correspond with MV at LGWCD on issues with B Road Agreement.	0.20	
11/18/2013	MDC Review initial draft of B Road Agreement.	0.30	
	FOR CURRENT SERVICES RENDERED	2.40	444.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	2.40	\$185.00	\$444.00

TOTAL CURRENT WORK 444.00

BALANCE DUE \$444.00

*(Handwritten signature: MDC)*

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Attn: Mark Kutney, Town Manager

Wellington Edge Code Matter

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 11/26/2013  
 ACCOUNT NO: 1574-1107564R  
 STATEMENT NO: 11

		HOURS	
11/18/2013	MDC Review initial brief and appendix; update Council and staff.	0.50	
11/19/2013	MDC Continue review of appeal matters, research cases for Answer Brief.	0.50	
	FOR CURRENT SERVICES RENDERED	1.00	185.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	1.00	\$185.00	\$185.00

COPYING COST	12.25
TOTAL EXPENSES THRU 11/26/2013	12.25
TOTAL CURRENT WORK	197.25
BALANCE DUE	\$197.25

*MDC*

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TOWN OF LOXAHATCHEE GROVES  
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ACCOUNT NO: 1574-1107573R  
 STATEMENT NO: 3

Attn: Mark Kutney, Town Manager

Sirdar Trucking

		HOURS	
11/13/2013	MDC Telephone call with MK, PU on status of payment dispute.	0.50	
11/14/2013	MDC Review materials, prepare correspondence to Sirdar attorney.	0.80	
11/25/2013	MDC Review correspondence on resolving dispute; prepare memo and agenda materials for MK to review.	0.80	
	FOR CURRENT SERVICES RENDERED	2.10	<u>388.50</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	2.10	\$185.00	\$388.50

TOTAL CURRENT WORK 388.50

BALANCE DUE \$388.50

*MDC*

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ACCOUNT NO: 1574-1107575R  
 STATEMENT NO: 2

Attn: Mark Kutney, Town Manager

2014 Special Act (LGWCD)

*MDC*

		HOURS	
10/30/2013	MDC Review draft of Special Act, attend conference call with David Ramba, counsel for the LGWCD.	1.00	
	BJS Legal Research re: Local Bill Procedure and liability issues for equestrian trails, use of easements.	0.80	
10/31/2013	BJS Continued Legal Research regarding Limitations of use of easements.	0.50	
11/05/2013	MDC Miscellaneous telephone calls with MV re: language in special acts.	0.50	
11/11/2013	MDC Prepare local bill on canal maintenance, trail issues.	1.00	
	DJD Review and revise proposed local bill.	0.50	
11/12/2013	MDC Review and serve draft of second special act.	0.20	
11/18/2013	MDC Revise materials from District re: November 18 Board Meeting; miscellaneous telephone calls with council, staff on status of Special Act.	0.40	
11/21/2013	MDC Review correspondence from MV on special acts.	0.20	
11/22/2013	MDC Review materials, telephone conference with MV on processing the special acts; prepare submittal packet for second special act; prepare resolution to support road easement special act.	1.10	
11/25/2013	MDC Revise submittal packet for second special act, forward to MV; prepare and revise resolutions for Town Council consideration.	0.80	
	FOR CURRENT SERVICES RENDERED	7.00	1,295.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
D.J. DOODY	0.50	\$185.00	\$92.50
MICHAEL D. CIRULLO	5.20	185.00	962.00
BRIAN J. SHERMAN	1.30	185.00	240.50

COPYING COST

8.05

2014 Special Act (LGWCD)

TOTAL EXPENSES THRU 11/26/2013	<u>8.05</u>
TOTAL CURRENT WORK	1,303.05
BALANCE DUE	<u>\$1,303.05</u>

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Attn: Mark Kutney, Town Manager

Minto West PUD

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 11/26/2013  
 ACCOUNT NO: 1574-1107576R  
 STATEMENT NO: 2

			HOURS	
11/21/2013	MDC	Review comp plan application; review statutes, AGOs on "agricultural enclave"; begin AGO letter per Council direction.	1.40	
11/22/2013	MDC	Review statutes, case law, prepare draft of request for AGO; review and revise draft of AGO request.	2.40	
11/25/2013	MDC	Review and revise request for AGO.	0.40	
	SRW	T/c/c with MDC. Review/revise request to Attorney General for Opinion.	0.80	
FOR CURRENT SERVICES RENDERED			5.00	<u>925.00</u>

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
MICHAEL D. CIRULLO	4.20	\$185.00	\$777.00
STACEY R WEINGER	0.80	185.00	148.00

COPYING COST		<u>64.05</u>
TOTAL EXPENSES THRU 11/26/2013		<u>64.05</u>
TOTAL CURRENT WORK	<i>mde</i>	989.05
BALANCE DUE		<u>\$989.05</u>

AMOUNTS PREVIOUSLY BILLED NOT INCLUDED ABOVE

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Attn: Mark Kutney, Town Manager

Bryan Road Project

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 11/26/2013  
 ACCOUNT NO: 1574-1107577R  
 STATEMENT NO: 1

		HOURS	
11/06/2013	MDC Review materials; prepare letter and easement documents.	0.90	
11/07/2013	MDC Review and revise letter to Bryan Road residents.	0.20	
	DJD Revise letter and dedication of public roadway instrument.	0.40	
11/20/2013	MDC Review status of documents for road easements.	0.30	
	FOR CURRENT SERVICES RENDERED	1.80	333.00

RECAPITULATION

<u>TIMEKEEPER</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL</u>
D.J. DOODY	0.40	\$185.00	\$74.00
MICHAEL D. CIRULLO	1.40	185.00	259.00

Color photocopies	9.45
COPYING COST	4.55
TOTAL EXPENSES THRU 11/26/2013	14.00
TOTAL CURRENT WORK	347.00
BALANCE DUE	\$347.00

MDC



**Item 2 a.**

**Invoice From Goren, Cherof, Deedy & Ezrol, P.A.**

**Item 2 b.**

**Minutes: November 5, 2013 / November 19, 2013**



# Town of Loxahatchee Groves

## Town Council Meeting

Tuesday, November 5, 2013 at 7:00 p.m.

Loxahatchee Groves Water Control District, 101 West "D" Road

Mayor David Browning (Seat 4)  
Vice Mayor Ronald D. Jarriel (Seat 1)  
Councilman Tom Goltzené (Seat 5)  
Councilman Ryan Liang (Seat 3)  
Councilman Jim Rockett (Seat 2)

Town Manager Mark Kutney  
Town Clerk Susan A. Eichhorn  
Town Attorney Michael D. Cirullo, Jr.

## MINUTES

### 1. OPENING

#### a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 p.m. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Ryan Liang, and Jim Rockett. Councilman Goltzené was not present. Also present were Town Manager Mark Kutney, Town Clerk Susan Eichhorn, Town Attorney Michael D. Cirullo, Jr., and Town Planning Consultant Jim Fleischmann.

#### b. Pledge of Allegiance & Invocation – Mayor Browning

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*Town Council Minutes  
Meeting of 11/05/2013*

c. Approval of Agenda

Discussion took place regarding having a second Town Council meeting in November and moving some of the items on the current agenda to that meeting. [*Clerk's Note: Please see motion made under New Business Item g. for motion setting second meeting in November*]

**Motion: Vice Mayor Jarriel made a motion to approve the Agenda, with amendments: Under New Business – remove Items c. and f.; Under Old Business – add Item a. Discussion Regarding Resurfacing of Bryan Road. The motion was seconded by Councilman Liang. The motion passed 4/0.**

**2. CONSENT AGENDA**

- a. Invoice from Goren, Cherof, Doody & Ezrol, P.A.
- b. Minutes for Approval: October 1, 2013
- c. Permission of the Town Council for Ray Sasser – 14805 Okeechobee Blvd., Loxahatchee Groves, FL 33470, Connection of New Potable Water Service with Palm Beach County
- d. Office of Inspector General Grant Agreement

**Motion: Councilman Liang made a motion to approve the Consent Agenda. The motion was seconded by Vice Mayor Jarriel. The motion passed 4/0.**

**3. PUBLIC COMMENT**

Keith Harris, 2580 C Rd.: Commented regarding that he noticed on the way to the meeting tonight as he went down Okeechobee to D Road that there was no lighting; he suggested security lights on some of the intersections that are so dark.

**4. PRESENTATIONS - Scott Blasie of Vacant Registry (vacant property registry)**

Scott Blasie, Executive Liason, Vacant Registry, addressed the Town Council. He distributed a folder regarding Vacant Registry and presented information regarding the company.

**Motion:** Councilman Rockett made a motion to receive and file. The motion was seconded by Councilman Liang. The motion passed 4/0.

**Motion:** Vice Mayor Jarriell made a motion that we have consensus that we need to review the possibility, consistent with the procurement code, of getting a proposal from Vacant Registry to clean up Loxahatchee Groves; and for staff to determine if an RFP or RFQ was necessary. The motion was seconded by Councilman Rockett. The motion passed 4/0.

Town Attorney Cirullo stated that he understood that the motion was that staff would review the issue and if a proposal could be brought back for consideration they would do that. He noted that there are alternatives for accepting any proposal.

## 5. COMMITTEE REPORTS –

- a. Finance Advisory & Audit Committee (FAAC) Report and Approval of the August and September 2013 Financial Reports – *Committee Member Virginia Standish*

Virginia Standish provided the report of the FAAC, noting that the Committee strongly advised to put the \$1.8 million Collecting Canal project on hold, and she explained the reasons for that. There was also the suggestion by the Committee that there should be a master plan for this community, urging that Town Management come back with options. Also, the Committee was concerned regarding the OGEM road acquisition portion of the budget, as far as the equality of how people have paid for the roads.

Discussion took place.

**Motion:** Councilman Rockett made a motion to accept the FAAC report and approve the August and September 2013 Financial Reports. The motion was seconded by Councilman Liang. The motion passed 4/0.

**6. PUBLIC HEARINGS –**

**a. RESOLUTION NO. 2013-15**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ACCEPTING COUNTY DEEDS FOR THE CONVEYANCE OF CERTAIN REAL PROPERTY TO THE TOWN PURSUANT TO SECTION 197.592(3), FLORIDA STATUTES; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

Town Attorney Cirullo read Resolution No. 2013-15 by title.

**Motion: Councilman Liang made a motion to approve Resolution 2013-15. The motion was seconded by Councilman Rockett. The motion passed 4/0.**

**b. RESOLUTON NO. 2013-16**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A BUDGET AMENDMENT FOR THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

Discussion occurred. It was the consensus of the Town Council to either move this item to second meeting in November, or discuss it this evening.

Councilman Rockett stated that he would meet with Town staff to address his concerns, and see if the changes he proposed to them could be made. Then we could have a short meeting on November 19<sup>th</sup> and limit it to the budget.

**Motion:** Councilman Liang made a motion to schedule the next Town Council Meeting for November 19, 2013, at 7:00 p.m. The motion was seconded by Councilman Rockett. The motion passed 4/0.

c. **ORDINANCES- 2<sup>nd</sup> Reading – None**

d. **ORDINANCE NO. 2013-06 - 1<sup>st</sup> Reading**

**Ordinance No. 2013-06**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO SPECIAL EXCEPTION USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 10-015, ENTITLED “DEFINITIONS” TO DEFINE “TEMPORARY EVENT;”; TO AMEND SECTION 20-015, ENTITLED “PERMITTED USES” (AGRICULTURAL RESIDENTIAL DISTRICT), TO REMOVE THE SPECIAL EXCEPTION REQUIREMENT FOR COMMERCIAL EQUESTRIAN OPERATIONS, ADD RODEO EVENTS AS A PRINCIPAL USE WITH SPECIAL EXCEPTION AND TEMPORARY EVENTS AS AN ACCESSORY USE WITH SPECIAL EXCEPTION APPROVAL, AND TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO AMEND SECTION 25-015, ENTITLED “PERMITTED USES” (COMMERCIAL LOW AND COMMERCIAL LOW OFFICE DISTRICTS), TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN PRINCIPAL USES; TO AMEND SECTION 30-015, ENTITLED “PERMITTED USES” (INSTITUTIONAL AND PUBLIC FACILITIES DISTRICT) TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION**

**NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO AMEND SECTION 115-01, ENTITLED "TABLE OF PUBLIC NOTICE REQUIREMENTS" TO PROVIDE NOTICE REQUIREMENTS FOR THE DIFFERENT CATEGORIES OF SPECIAL EXCEPTIONS; TO AMEND ARTICLE 170, ENTITLED "SPECIAL EXCEPTION USES" TO DEFINE THE CATEGORIES FOR SPECIAL EXCEPTION REVIEW, AND TO PROVIDE FOR THE APPLICATION REQUIREMENTS, REVIEW PROCEDURES AND RELATED MATTERS FOR THE CATEGORIES OF SPECIAL EXCEPTION REVIEW; TO AMEND ARTICLE 120, ENTITLED "QUASI-JUDICIAL HEARINGS," SECTION 120-015, ENTITLED "QUASI-JUDICIAL MATTERS" TO SPECIFY THE SPECIAL EXCEPTIONS THAT ARE CONSIDERED QUASI-JUDICIAL MATTERS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo read Ordinance No. 2013-06 by title.

Mayor Browning opened the public hearing.

Town Planning Consultant Jim Fleischmann provided the staff report, and advised that the staff recommendation was to approve the ULDC text amendments.

Mayor Browning opened the public hearing

Councilman Rockett asked why a Category C Special Exception would not notify adjoining properties. Mr. Fleischmann said that could be added, if so desired. Staff felt that by signing the affidavit stating that there would not be any of these activities – 24 hours, the impacts would be minimal to none. If the Town Council felt it appropriate to notice the adjoining properties, that could easily be done, if it was so directed.

**Motion: Councilman Liang made a motion to adopt Ordinance No. 2013-06 on first reading, with Special Exception Categories B and C having the same notice requirements. The motion was seconded by Councilman Rockett.**

Public Comment:

Keith Harris, 2508 C Rd.: Commented that he thanked the ULDC Review Committee for their work in regard to special exceptions, and respectfully requested approval of the ordinance.

Virginia Standish, Chair of the ULDC Review Committee: Referred to page 126, and noted that the Committee was strongly opposed to event such as rodeos. The other comment she had was on page 126, when she saw residential enterprise listed; the ULDC had made their feelings clear that they were opposed to having residential enterprise listed. She wanted to make the position of the ULDC Review Committee clear.

Nina Corning, E Road: Commented that she was thankful for taking the commercial equestrian off as a special exception, as it had been requested for quite some time. She did have some concerns in regard to the 24 hour events, and suggested that there be a frequency limit imposed on that. Commented regarding retail nurseries still being a Category A, and wondered if more categories should be added under institutional use. Suggested that rodeo being an accessory and principal use should probably be questionable.

John Ryan, 3508 A Rd.: Commented on page 108 – the permitted accessory use for dog boarding. He thought the ULDC had discussed dog boarding in connection with the Big Dog Rescue organization. Mr. Fleischmann explained that the ULDC Committee did discuss it in terms of the Big Dog Rescue, but page 108 lists the uses that are currently allowed in the Code.

Mayor Browning asked if there was any clarification whether commercial kennels were to be inside. Mr. Fleischmann said that is something we did not look at as part of this exercise. Mayor Browning said that is something staff may want to look at in the future.

**The motion passed 4/0.**

Mayor Browning thanked the Committee for its diligence.

Town Attorney Cirullo stated that the second reading would be at the December 3, 2013, Town Council meeting.

e. **ORDINANCE No. 2013-08** – 1<sup>st</sup> reading

**Ordinance No. 2013-08**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN OF LOXAHATCHEE GROVES, FLORIDA COMPREHENSIVE PLAN, IN ACCORDANCE WITH SECTION 163.3184(3) FLORIDA STATUTES TO: (1) AMEND THE TRANSPORTATION ELEMENT TEXT; (2) AMEND THE DRAINAGE SUB-ELEMENT TEXT OF THE INFRASTRUCTURE ELEMENT; (3) AMEND THE RECREATION AND OPEN SPACE ELEMENT TEXT; AND (4) AMEND THE CAPITAL IMPROVEMENTS ELEMENT TEXT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo read Ordinance no. 2013-08 by title, as printed above.

Town Planning Consultant Fleischmann provided the staff report and advised that it was the recommendation of staff for approval and further recommended that the ordinance be transmitted to the Florida Department of Economic Opportunity for review and comment.

**Motion: Vice Mayor Jarriel made a motion to adopt Ordinance No. 2013-08 on first reading. The motion was seconded by Councilman Liang.**

Public Comment was requested by Mayor Browning.

Nina Corning E Rd.: Commented regarding which comments were the recommendation of the Roadway, Equestrian Trails and Greenway Advisory Committee (RETGAC) and those that were made by the Planning and Zoning Board, and referred to Objective 2.3.

**After discussion, it was the consensus of the Town Council to change the word “shall” to “may” under Objective 2.3 in the second sentence.**

Mayor Browning questioned Objective 2.3.6 and asked if we are looking to provide parking for other people to come in. Are we making it a destination point for riders to come in and ride our trails? Mr. Fleischmann replied that if a land use happens to be existent on a trail, then the parking goes on the side away from the trail – it is not saying that we are encouraging parking alongside the trails.

There were no further public comments.

The motion passed 4/0.

**f. ORDINANCE NO. 2013-09 – 1<sup>st</sup> Reading Quasi Judicial Public Hearing**

**Ordinance No. 2013-09 – Quasi Judicial Public Hearing**

*(Simon Trust Property – Loxahatchee Groves Commons)*

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE REZONING OF LAND CONSISTING OF APPROXIMATELY 21.73 ACRES, MORE OR LESS, LOCATED AT THE NORTHWEST CORNER OF SOUTHERN BOULEVARD AND “B” ROAD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT “A” TO THIS ORDINANCE, FROM LOXAHATCHEE GROVES ZONING DESIGNATION AGRICULTURAL RESIDENTIAL (AR) TO THE LOXAHATCHEE GROVES ZONING DESIGNATION COMMERCIAL LOW PLANNED UNIT DEVELOPMENT (CL/PUD); PROVIDING FOR THE APPROPRIATE REVISIONS OF THE ZONING DISTRICT MAP; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo advised that this Ordinance 2013-09, as well as Ordinance No. 2013-10, was a quasi-judicial matter, and provided the explanation of the process, which he was required to do by Code.

Town Attorney Cirullo read Ordinance No. 2013-09 by title, as printed above.

Town Attorney Cirullo swore in all those who would be providing testimony.

Bob Bentz with Land Design South, representing the property owner, provided a power point presentation, noting that the request was for master plan approval and two waiver requests for parking space size requirements and a waiver for separation criteria for alcoholic beverage establishments, since we are not sure where the school buildings will be located on the site. He noted that bars and nightclubs were prohibited on the property. He also noted that the master plan reflects the comments of both the Planning and Zoning Board and the RETGAC. Prior to second reading there would be agreement between the three parties relative to B Road, and the agreement would be adopted by all of the parties involved.

Councilman Rockett asked to see the old plan that was previously shown to the Town Council. Mr. Bentz provided a power point of the previous plan and explained the changes that had been made.

Councilman Rockett observed that parking accessibility to the park has changed and been reduced in the new plan.

Mr. Bentz replied that when you think of a park you think of associated amenities to that park. The idea of moving it made it a lot more usable when it was adjacent to the lake area.

Staff Report:

Town Planning Consultant Fleischmann provided the staff report and advised that it was the recommendation of staff that Ordinance No. 2013-09 is approved, subject to the Master Plan and conditions of approval included in exhibit B of the ordinance.

Staff recommended two agreements relative to B Road– one that addresses the paved section, and one that addresses the OGEM section that commences north of the paved section and because of different issues, such as right of way, etc, that should be the subject of a separate agreement, which would include that funds would be contributed to an escrow account to pay for construction of the improvements. Staff also recommended that the waivers requested are granted.

Public Comments:

Keith Harris, 2580 C Rd.: Commented that he recalled four outbuildings during the Planning and Zoning Board review, and he now sees a fifth outbuilding. He is curious as to how that occurred.

Nina Corning, E Rd.: Commented as Chair of RETGAC and cautioned that it said that we approved it and it was going along with our Comprehensive Plan and we did not make any such remark. To say that we approved this as is – we were not quite as happy with this as the other development that is coming up next. We were concerned about the future development over the years and future traffic. We asked that the numbers really be looked at and studied to be sure that the exits out to Southern would work. We also asked that it be made clear that traffic would not be going down B Rd. , and asked that there be a turnaround for traffic that accidentally went north. Suggested that there be some fencing in the equestrian area.

Mayor Browning requested any further public comment.

There was none.

**Motion: Councilman Rockett made a motion to approve Ordinance No. 2013-09 on first reading, with the conditions as recommended. The motion was seconded by Vice Mayor Jarriel. Upon roll call vote the motion passed 4/0.**

\*\*\*\*\*A short break was taken at 9:20 p.m. The meeting resumed at 9:25 p.m.\*\*\*\*\*

**g. ORDINANCE No. 2013-10 – 1<sup>st</sup> Reading Quasi Judicial Public Hearing**

**Ordinance No. 2013-10 – Quasi Judicial Public Hearing**

(Solar Sportsystems, Inc. – Groves Town Center)

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR THE REZONING OF LAND CONSISTING OF APPROXIMATELY 90.33 ACRES, MORE OR LESS, LOCATED AT THE NORTHEAST CORNER OF SOUTHERN BOULEVARD AND “B” ROAD, LOXAHATCHEE GROVES, FLORIDA, LEGALLY DESCRIBED AND AS DESIGNATED ON THE MAP ATTACHED AS EXHIBIT “A” TO THIS ORDINANCE, FROM LOXAHATCHEE GROVES ZONING DESIGNATION AGRICULTURAL**

**RESIDENTIAL (AR) TO THE LOXAHATCHEE GROVES ZONING DESIGNATION MULTIPLE LAND USE PLANNED UNIT DEVELOPMENT (MLU/PUD); PROVIDING FOR THE APPROPRIATE REVISIONS OF THE ZONING DISTRICT MAP; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Attorney Cirullo read ord. No. 2013-10 by title as printed above.

Town Attorney Cirullo swore in all those who would be providing testimony.

Marty Perry, on behalf of the applicant, addressed the Town Council. He introduced planner Bradley Miller who would provide details of the conceptual master plan.

Bradley Miller, Miller Land Planning, provided a power point presentation of the proposed master plan.

Mr. Perry noted that there would be a horse crossing over Collecting Canal, which was an expensive proposition that the applicant agreed to. Also, the buffer areas consist of 27 acres.

Town Planning Consultant Jim Fleischmann provided the staff report and advised that staff recommendation was to approve Ordinance No. 2013-10, subject to the master plan and conditions of approval which were contained in exhibit B of the proposed ordinance. Staff also recommended that the applicant be allowed to come back and request a parking space waiver at the time of site plan approval. Staff also recommended that the second reading will not occur until the three party agreements for B Road construction are finalized.

Public Comment:

Nina Corning, E Rd.: Commented regarding some minor items in the staff report.

In response to Vice Mayor Jarriel, Mr. Perry explained that the horse trail bridge will be a horse bridge, not a vehicle bridge. He advised that he would be concerned with putting a bridge on D road or some other location, and that would be a whole new discussion. Vice Mayor Jarriel explained that he is looking at what will help all equestrians in Loxahatchee Groves.

Further discussion took place regarding a possible roundabout on B Road, signage on Okeechobee Blvd. to point out where the college was located and a conservation easement or a deed restriction.

Mayor Browning stated that he really does not want a sign on Okeechobee Blvd. regarding the location of the college.

Public Comment:

Keith Harris, 2580 C Rd.: Commented regarding the horse trail bridge.

**Motion: Vice Mayor Jarriel made a motion to approve on first reading Ordinance No. 2013-10 with the recommended staff conditions. The motion was seconded by Councilman Liang. Upon roll call vote, the motion passed 4/0.**

**7. ADMINISTRATIVE UPDATE – *Town Manager Kutney***

1. State Road (SR) 7 Extension: Town Manager Kutney noted that Councilman Rockett had asked him to look into this and he stated that he would provide the bullet points made at the Chamber of Commerce meeting to the Town Council.

Councilman Rockett said that his concern is that the Town Council needs to allow for us to contribute to an effort by the communities to help fund the lobbyist to help move this forward. He would like to authorize up to \$5,000 to contribute to a fund, if requested, by the Western Community Council, or one of the other cities that may take a lead.

**Motion: Councilman Rockett made a motion to authorize up to \$5,000 to be contributed to a lobbyist effort to move the SR 7 project out of the Fish and Wildlife Department of the federal government, and make that payment to whoever takes the lead. The motion was seconded by Councilman Liang.**

Public Comment:

Penny Riccio, 71<sup>st</sup> Place N : Appreciates that and will bring back to the supervisors of Indian Trail improvement District. Commented regarding the SR 7 extension.

**The motion passed 4/0.**

2. Western Plaza/Mr. Yee: Town Manager Kutney reported that Mr. Yee's architect met with staff and is familiarizing himself with the Codes and they are looking at doing some improvement on the Plaza Center. He will continue to report on this.
3. Literacy Coalition: Town Manager Kutney reported that he would be handing out plaques from the Literacy Coalition at the December meeting.
4. The Certificate of Achievement for Excellence in Financial Reporting was awarded to the Town of Loxahatchee Groves for its comprehensive annual financial report (CAFR), by the Government Finance Officers Association. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.
5. Town Manager Kutney distributed the first two monthly reports by the LGWCD relative to Town road maintenance.
6. Town Manager Kutney reported that Town Clerk Eichhorn has family obligations that necessitate her pulling back on the number of hours that she can work with the company. Starting on November 12, 2013, Janet K. Whipple will be taking on the duties of Town Clerk for the Town of Loxahatchee Groves.

Vice Mayor Jarriel requested that the Town Manager add 2380 C Road to the vacant registry list, and check on the property on Morrow Court off C Road. Town Manager Kutney replied that he would check the properties.

## **8. OLD BUSINESS**

- a. Discussion Regarding Resurfacing of Bryan Road (*Added to Agenda by Vice Mayor Jarriel*)

Vice Mayor Jarriel explained that there was a contractor working nearby that could do micro-resurfacing and that Bryan Road needs repair, and since the contractor was in the area, perhaps it

could be repaired if procurement was not a problem. He hoped that direction could be made tonight to Management to send letters out to the occupants on Bryan Road making them aware of the steps necessary to allow the road to be paved.

Town Attorney Cirullo replied that now that we have the information from the surveyor, the next step is that those folks on Bryan Road would need to complete the same documents that were done by the County for Marcella and Compton. Once we get those documents in place the work on resurfacing the road could occur.

**It was the consensus of the Town Council to have a generic letter sent to all residents on Bryan Road to let them know of the procedure necessary for paving to occur.**

Vice Mayor Jarriel referred to the procurement policy and requested that Town Manager Kutney talk to North Florida Emulsions to obtain some costs.

Town Attorney Cirullo stated that there may be alternatives to contract and move forward. Staff would report in December what the plan would be to procure Bryan Road.

Town Manager Kutney advised that this issue would need to be brought back to the Town Council, because of procurement, and a budgetary consideration.

## **9. NEW BUSINESS**

### **a. Work Authorizations for Underwood Management Services Group**

Town Manager Kutney referred to his Agenda Report, dated October 31, 2013, and included in the back-up material. After explaining the contents of the Agenda Report, he requested additional funds to finish the projects referred to: Work Authorization 12-02, Capital Improvement Element would need an additional \$1,000.00 to complete the transmittal/adoption phase. Work Authorization 12-03, Okeechobee/Southern Moratorium Amendments to the Comprehensive Plan would need an additional \$8,000.00 to finish the amendments. Work Authorization 12-04, ULDC Review Committee activities would need an additional \$5,370.00 to complete. The total of the requested additional funds was \$14,370.00

**Motion: Councilman Liang made a motion to authorize additional funding in the amount of \$14,370. The motion was seconded by Vice Mayor Jarriel.**

Vice Mayor Jarriel commented that the ULDC Review Committee should not be terminated. He thinks we ought to pay for that committee to finish what they started.

Councilman Rockett commented that he was concerned that the monies for the ULDC Review Committee activities have been mismanaged. There was discussion about noise at the ULDC and that was not part of anything we directed the ULDC to talk about. I would like them to complete only one thing – the historical legacy piece of the ULDC only. Then come back to the Town Council and let the Council consider other things that we would want them to do. End it at the end of the year with the idea that we will start again with another resolution to form the committee. If we are going to approve any more money at least assign specific limitations on what should be discussed. The one thing that is still opened is the historical legacy issue.

Town Manager Kutney replied that the Committee has addressed historical legacy. The final issues that they have not gotten around to are environmental preservation, and nonconforming uses. Right now there is nothing before them that he could think of that was not directed by Town Council.

Councilman Rockett suggested that the environmental preservation and nonconforming issues are held aside and we revisit what we want to have done and we revisit what we want the Committee to address.

Town Manager Kutney stated that he would let the Committee know that we will put them on hold for a while until we let them know what is next.

Town Attorney Cirullo noted that whatever list is put together for the Committee to address you would need to be put together on December 3<sup>rd</sup> ; you would have to do it so that they could accomplish that work in December. If not, we will have to bring you a Resolution to extend the Committee in January -- a Resolution to extend the committee, perhaps by 90 days to March 2014.

**Motion: Councilman Liang amended his motion to authorize \$1,000.00 for the CIE, and \$8,000 for completion of moratorium amendments on Okeechobee/Southern Blvds.**

Town Manager Kutney referred to the foreclosure issue, and advised that the agreement with the County did not provide Loxahatchee Groves with a building official. The ULDC Review Committee had recommended that the Town Council consider having a private vendor as the Town's building official. Mr. Kutney explained that there was a disconnect with the County in that regard, and he and the Town Attorney are discussing it. He explained that the issue of

foreclosures and unsafe structures brought that item to the forefront of the discussion at the ULDC Review Committee.

Town Attorney Cirullo advised that the County would be contacted to determine what the options were for declaring a structure unsafe, and that staff would report back.

**The motion passed 4/0.**

- b. Roadway, Equestrian Trails & Greenway Advisory Committee (RETGAC) Proposal Regarding Controlled Equestrian Crossings for B and F Roads at Okeechobee Blvd. (*Keith Harris, Member of RETGAC*)

Keith Harris, on behalf of RETGAC referred to the motion made by RETGAC at its last meeting for controlled crossings at Okeechobee Blvd., B and F roads. He presented some visual aids regarding what the crossings would look like, and discussed the sources of funding. He requested that the Town Council implement controlled crossings with equestrian, pedestrian, and bicycle signage.

Vice Mayor Jarriel stated that we need to communicate with the County and find out what it would cost to install these, such as what was installed at Loxahatchee Elementary School.

**Motion: Vice Mayor Jarriel made a motion to direct staff to contact the County and reference the lights at the school and find out who we can communicate with at the County to have crossings installed at B and F and Okeechobee Blvd. The motion was seconded by Councilman Liang. The motion passed 4/0.**

- c. E-Mail from Southern States (*Removed from Agenda under Item 1.c. "Approval of Agenda."*)
- d. Special Acts – Legislation Regarding Roadways

Town Attorney provided a current draft of the proposed bill. The LGWCD was scheduled to meet on November 18, 2013, and request a motion to support the proposed legislation, subject to whatever minor changes the LGWCD may make to it.

**Motion:** Councilman Rockett made a motion to support the proposed legislation subject to any minor changes that the LGWCD may make to it. The motion was seconded by Councilman Liang. The motion passed 4/0.

**Motion:** Councilman Rockett made a motion that the Town shares the cost of a lobbyist in regard to the proposed legislation. The motion was seconded by Vice Mayor Jarriel. The motion passed 4/0.

Town Attorney Cirullo referred to the second bill – I want to make sure that the LGWCD considers the concept that you want in that second bill. It would address the same concept of the roads, but on the other side of the road where there was an easement, and recognition that the easement could be used for equestrian trails and that would satisfy what the Town would need for grants.

**Motion:** Councilman Liang made a motion to approve the concept for the second bill, as stated by Town Attorney Cirullo. The motion was by seconded by Vice Mayor Jarriel. The motion passed 4/0.

John Ryan, 3508 A Rd.: Commented on situation with funding of the two local bills. The LGWCD would ask the town to share 50/50 of the direct costs of the lobbyist to move these bills through, and the LGWCD was under the assumption that we could use part of the costs of the Town subsidy to the LGWCD, and that may not qualify as a road maintenance expense, so that portion would need to come out of general funds, as opposed to gas tax.

Mayor Browning replied that he thought that it is a Town issue, not a District issue. If the people in the Town had to pay all of it in order to get access to the trails, he was for it.

Town Attorney Cirullo explained that it is a LGWCD issue in that they would secure the easement that they have been using for maintenance of the canals, and then part and parcel the Town would kind of piggy back on that to get our equestrian trails.

Town Attorney Cirullo and Town Manager Kutney advised that they would work out the financial portions, and come back to the Town Council with that.

d. Minto West Land Use Amendment and Rezoning

Town Attorney Cirullo explained that the Minto West application had been filed with the County, however it is not yet available on the internet. Once we can review the application we will review it and update you in December and seek further direction.

Vice Mayor Jarriel commented that the only way to change the County's mind is through buses of people protesting.

Mayor Browning commented that, to him, it is probably the most important fight we have faced in our Town. If Minto is allowed to increase their density, it will effectively triple the population our there from what it could be.

f. Discussion and Approval of all Concerns of LGWCD Proposed Legislation Regarding Roadways) (*Removed from Agenda under Item 1.c. "Approval of Agenda."*)

g. Review of Council's policies, practices and procedures not included in Town Ordinances and Resolutions to determine if any modifications or changes need to be made (*Councilman Jim Rockett*)

Councilman Rockett advised that this item would be put off for discussion at a future date.

## 10. CLOSING COMMENTS

a. Public

None

b. Town Attorney

None

c. Town Council Members

Councilman Rockett: Thanked everyone for attending.

Councilman Liang: Thanked everyone for attending.

Vice Mayor Jarriel: Thanked everyone for attending.

Mayor Browning: Thanked everyone for attending.

## 11. ADJOURNMENT

There being no further business, the Town Council Meeting of November 5, 2013, was adjourned at 11:10 p.m.

\_\_\_\_\_  
Susan Eichhorn, Town Clerk

\_\_\_\_\_  
David Browning, Mayor

**(SEAL)**

**These minutes were approved at the December 3, 2013, Town Council Meeting**



# Town of Loxahatchee Groves

## Town Council Meeting

Tuesday, November 19, 2013 at 7:00 p.m.

Loxahatchee Groves Water Control District, 101 West "D" Road

Mayor David Browning (Seat 4)  
Vice Mayor Ronald D. Jarriel (Seat 1)  
Councilman Tom Goltzené (Seat 5)  
Councilman Ryan Liang (Seat 3)  
Councilman Jim Rockett (Seat 2)

Town Manager Mark Kutney  
Town Clerk Susan A. Eichhorn  
Town Attorney Michael D. Cirullo, Jr.

### MINUTES

#### 1. OPENING

- a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 p.m. Present were Mayor David Browning, Vice Mayor Ronald D. Jarriel, and Councilmen Tom Goltzené and Jim Rockett. Councilman Liang was not present. Also present were Town Manager Mark Kutney, Town Clerk Susan Eichhorn, Town Attorney Michael D. Cirullo, Jr., and Town Planning Consultant Jim Fleischmann.

- b. Pledge of Allegiance & Invocation – Mayor Browning
- c. Approval of Agenda

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**Town Council Agenda**  
**11/19/2013**

**Motion:** Councilman Rockett made a motion to approve the Agenda. The motion was seconded by Vice Mayor Jarriel. The motion passed 4/0.

## 2. CONSENT AGENDA

- a. Minutes for Approval: Special Town Council Meeting/Workshop October 22, 2013

**Motion:** Councilman Rockett made a motion to approve the minutes of the Special Town Council Meeting/Workshop held on October 22, 2013. The motion was seconded by Vice Mayor Jarriel. The motion passed 4/0.

## 3. PUBLIC COMMENT

Dennis Lipp, North Rd.: Announced that he is now a member of the Palm Beach County Planning Commission. He suggested that the Town organize how it plans to address the Minto application. He read some responses that Minto had made to the Palm Beach County staff comments. He also suggested that the Town consider requesting an Attorney General Opinion (AGO) regarding the definition of “surrounding properties.” He noted that Minto will probably not be coming before the Palm Beach County Planning Commission until December, and that the Town needs an AGO as soon as possible.

Mayor Browning commented that if they are allowed to go with higher density every future project will also do that, and Okeechobee will not be designed in a manner that would be reflective of our community. He encouraged everyone to get involved.

Mary Jahnke, 13725 Fox Trail: Commented regarding the condition of Bryan Road and on what is going to happen with Bryan Road. Said that no one is maintaining the road and there are many potholes.

Darrel Fisher, 13725 Fox Trail: Commented regarding fill that he had put on the road himself years ago and since that time no fill has been put on the road. Said that the road is very busy and he needs the road to be accessible by Fire-Rescue – when it rains, it floods; drainage is a problem, and the road needs to be filled in. He would like to have something done about it and he would like it in writing as to what decision will be made.

Mayor Browning replied that would be given to our management and directed the Town Manager to look into it.

Town Manager Kutney advised that he would give a report on the matter later in the evening, under his Administrative Report.

Darrel Fisher, 13725 Fox Trail: Commented regarding garbage/trash pick-up and his interaction with Mr. Schiola regarding measurements of the amount of trash.

#### **4. PRESENTATIONS**

#### **5. COMMITTEE REPORTS**

#### **6. PUBLIC HEARINGS**

##### **a. RESOLUTION NO. 2013-16**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ADOPTING A BUDGET AMENDMENT FOR THE TOWN'S BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012 AND ENDING SEPTEMBER 30, 2013; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.**

Town Attorney Cirullo read Resolution 2013-16 into the record as printed above.

Town Manager Kutney expressed that Mr. Underwood had intended to be here, however, because of a family matter, he needed to be with his family at this time. Town Manager Kutney read into the record the memorandum provided by Mr. Underwood, dated November 9, 2013, and included in the back up material.

Councilman Rockett commented that he had come into the Town offices and received answers to a lot of his questions regarding the budget amendment, however there was one item with which he disagreed with the approach. In addition, he suggested that, as a Council, we want to make our unassigned fund balance as big as it can be and our assigned fund balances to be true to what we have planned. He explained that he would like to move \$400,000 back into the unassigned fund, because if we do not need the money in an assigned use category we need flexibility to use funds in an unassigned category.

Town Manager Kutney provided an explanation and said that he would discuss with Mr. Underwood and get further details. He explained that during the year, there was the ability to do budget amendments. Mr. Rockett said that if the money could be moved back into the unassigned general fund, his concern was that we missed the opportunity for this budget year.

Discussion ensued.

**Motion: Councilman Rockett made a motion as follows:**

**Motion to approve Resolution No. 2013-16 with the following adjustments:**

**Reduce revenues from fund balance by \$400,000**

**On expenditures in General Fund, reduce budget transferred to CIP \$400,000**

**On Capital Budget, under revenue contributions from General Fund, reduce by \$400,000 and make it zero.**

**Under the annual budget you take \$500,000 out of the Town Hall alternatives and make it \$100,000.**

**Line item to be changed – under expenditures: grant of \$28,893, that gets moved to the Transportation Fund.**

**The motion was seconded by Vice Mayor Jarriel.**

**The motion failed 3/1:**

**Councilman Rockett: Yes**

**Vice Mayor Jarriel: No**

**Councilman Goltzené: No**

**Mayor Browning: No.**

**Motion: Councilman Goltzené made a motion to adopt the budget amendment, Resolution No. 2013-16, as recommended. The motion was seconded by Vice Mayor Jarriel. The motion passed 3/1:**

**Councilman Goltzené – Yes**

**Vice Mayor Jarriel – Yes**

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**Town Council Agenda**

**11/19/2013**

**Councilman Rockett – No**

**Mayor Browning - Yes**

b. **ORDINANCES- 2<sup>nd</sup> Reading – None**

c. **ORDINANCES 1<sup>st</sup> Reading - None**

**7. ADMINISTRATIVE UPDATE – Town Manager Kutney**

- Town Manager Kutney advised that Councilman Liang will miss meetings probably through January 7. It is likely he will be available on the 14<sup>th</sup> or the 21<sup>st</sup> and Mr. Kutney suggested moving the meetings.

**It was the consensus of the Town Council to hold the Town Council meeting on January 14, 2014.**

Town Manager Kutney verified that the next Town Council meeting would be held on December 3, 2013, followed by the January 14, 2014 Town Council meeting.

Mayor Browning advised that he liked the idea of having the second meetings of the month as workshop meetings. Also, he advised that he appreciated having one meeting in the months of November and December.

Town Manager Kutney stated that the Town Council could also think about reserving the second meeting in the month only for Planning and Zoning items.

- Town Manager Kutney advised that just a few hours ago, he had received the Town traffic engineer's estimate on the Okeechobee and D traffic signal. It appears to show that for a strain pole signal, including construction and design - \$290,094. Mast arm: \$423,010. He would provide the Town Council copies of the estimate, and would like to have a chance to look at it in more detail and then get information from Palm Beach County about which design is best.

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**Town Council Agenda**

**11/19/2013**

## 8. OLD BUSINESS

- a. Update Regarding Special Acts – Legislation Regarding Roadways  
(*verbal updates*)

Town Attorney Cirullo stated that at the last meeting discussion had taken place regarding the roadway legislation. The language has been prepared and it provides the mechanism for filing of a map, etc. It also authorizes the District to allow it to be used for an equestrian trail. The legislation was on the LGWCD agenda last night, and it could now be filed, unless the Town Council had any objections.

Nina Corning, E Rd.: Commented regarding the legislation. In Item #3, she was a bit worried about the language regarding the permits to be issued. She is worried that when we ask for grants from the EPA – the last time there was the issue of whether the Town had control – and she wants to make really sure that the language regarding the permit is going to pass muster when it comes to asking for these grants. She is very grateful that this is going forward.

Town Attorney Cirullo explained that any grant requires some documentation that there is property control; we would have the permit and the special act to satisfy that requirement.

Town Attorney Cirullo advised that unless the Town Council directs him not to do it, he will move forward.

- b. Update Regarding Minto West Land Use Amendment and Rezoning  
(*verbal updates*)

Town Attorney Cirullo advised he had not yet seen the actual application, and that he had Town Planning Consultant Jim Fleischman contact the County.

Discussion took place.

### Public Comment:

Dennis Lipp, North Rd.: Referred to the former AGO opinion regarding the setback for Agricultural properties. This issue would be a very simple AGO as well, and whatever the Town Attorney billed for the former one should be about the same as this one. He discussed information that had been provided to Commissioner Santamaria regarding the number of home

sites that had already been approved in Palm Beach County, and that sufficient property had already been approved for development through 2024. He urged a united front as a western community and showing up at County meetings, and getting an AGO regarding the definition of “surrounding properties.”

Discussion continued regarding what may be an achievable goal – for example saying do not use anything through our Town – leave us alone and go around.

Public Comment:

Nina Corning, E Rd.: Commented regarding the upcoming development projects and that getting word out to have people attend the County meetings was very important. Commented on what developers ask for and that we need to figure out ways that we can convince the Commissioners that this does not belong in the neighborhood proposed. What is different with this is that they are looking at several things at the same time. We need to let people know when to show up at the meetings. Getting the word out in some manner will be important.

Town Attorney Cirullo stated that he thought the cost of an AGO would be comparable to the AGO that was prepared earlier this year. He advised that he could have a draft ready for the Town Council at the December 3, 2013, meeting if he was so authorized.

**Motion:** Councilman Rockett made a motion to authorize Town Attorney Cirullo to move forward and prepare a draft letter to the AGO regarding the definition of surrounding properties, for the December 3, 2013, Town Council meeting. The motion was seconded by Vice Mayor Jarriel. The motion passed 4/0.

## 9. NEW BUSINESS

- a. Resurfacing of Bryan, Compton & Marcella (*Vice Mayor Jarriel*)

Vice Mayor Jarriel complimented staff and the Mayor for the letter that went out on Bryan Road, that was sent out on Friday. In order to accomplish the resurfacing, a group has checked out roads in Jupiter Farms that was micro resurfaced and we all agreed that would be good for the three roads noted above. Town Manager Kutney would be reviewing contracts with North

Florida Emulsions that would allow piggy backing and it would be on the December 3, 2013, Town Council agenda.

Town Attorney Cirullo reminded Vice Mayor Jarriel that a follow up letter will be sent to all those on Bryan Road that will be prepared with their specific information. Doing the work on Bryan will depend on getting the documents included with the letter returned to us.

Public Comment:

Frank Schiola, Marcella Blvd.: Commented that he did not dispute that Compton and Bryan need to be done. We need to have drainage there. Anything we do to the road will be affected by summer rains, especially on Compton where there were a couple of blockages. On Bryan there were some areas where the water flows and in other areas not at all. We need to do the drainage.

Darrel Fisher, 13725 Fox Trail: Commented on Compton, Bryan and Marcella and why those roads were being resurfaced when you cannot drive down other roads that are in bad shape. Why are we going to pay to have that done.

Councilman Goltzené responded that the people on those roads have signed over their ownership to the Town. That process is going on right now on Bryan Road. There are no standards for the dirt roads and that is why you find a great deal of variance between one and another. That is why things are the way they are. They are not up to State standards. If your road was owned by the Town, then we would proceed with that when we have the money. Imagine if every road was OGEMed – we would be resurfacing every seven years, and it would be a cycle throughout the Town. We can put dirt and rock on your road, but as we do that no one wants to pay the bill. That is what everybody has to understand.

b. Florida Emulsion (*Vice Mayor Jarriel*)  
(*Discussed in the preceding item*)

c. Scott Blasie – Vacant Registry (*Information Packet was distributed to Town Council Members at the 11-5-13 Town Council meeting*)

Vice Mayor Jarriel commented that Vacant Registry had been hired by other towns, and that the house on C Road is not safe, and over a year ago the Magistrate said that it needs to be closed out. The Vacant Registry people had proven themselves in Wellington, and it would not cost the Town of Loxahatchee Groves anything out of pocket. If we have already found things, they will not take anything out, -- only if they find it.

Town Manager Kutney advised that he would follow up with the attorney regarding the house on C Road.

## 10. CLOSING COMMENTS

### a. Public

None.

### b. Town Attorney

Town Attorney Cirullo: Wished everyone Happy Thanksgiving

### c. Town Council Members

Councilman Goltzené: Happy thanksgiving

Vice Mayor Jarriel: Happy Thanksgiving. Darrel and his wife were here for the simple fact that they need fill on their road. Our policy is that if a resident calls in and says they need fill, staff goes out and checks it out. They need a minimum of two loads of fill out there. We have people from the Town and people from the LGWCD go out and look at their road. All we are doing is moving dirt and grading. But no matter what, you are moving that dirt around and it is lost through dust and when it rains too. Somebody qualified needs to look at the roads and say when they need fill.

Town Manager Kutney: We had a very good discussion at the IGC today and Steve Yohe and I did a site visit to the road after the meeting, and after the grading, that is a nice road (Fox Trail). We did see one area near the turn around, but other than that there was no washboard effect. I told Mr. Fisher that we have been monitoring the road. We have a limited budget on the rock and we are trying to be judicious in where we use the rock.

Vice Mayor Jarriel: These people on this road are not liars. Over 8 weeks ago when it was graded, the operator of the grader said they needed fill. I spoke with Steve today and he said it was no worse than any other road in Loxahatchee Groves. I urge the Town Council members to go over tomorrow and look at the road and the hole and the mailboxes, because it does need fill.

Councilman Goltzené: We don't have a standard. Ron thinks one thing. Mark thinks one thing. So does Steve Yohe. It is perception, and when we don't have a standard there is no way to say if the road is good or not. You need to have a standard. We have to agree on what we are doing. If we put 6 inches of rock on every road in Town I think we would go bankrupt. Another illustration is: we have got 3 million bucks; we've got 3,000 residents – you have a \$1,000 per person to spend. That is basically where we are at. It doesn't go very far in this world. We are a little town and we have a small budget, and we have a low tax base and low income. We have to either raise our income, or reduce our expectations. The people who live here need to say whether they want a high service/ high tax community or a low service/low tax community. But a high service – somebody else pay the bill community is probably not available. .

Councilman Rockett: Thanked everyone for attending.

Mayor Browning: Thanked everyone for attending. Happy Thanksgiving. If we want our community to look like Wellington, pretty soon we won't be able to afford to live here. Let's do the best we can with what we've got.

## 11. ADJOURNMENT

There being no further business, the Town Council Meeting of November 19, 2013, was adjourned at 9:11 p.m.

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Town Clerk

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David Browning, Mayor

(SEAL)

**These minutes were approved at the December 3, 2012, Town Council Meeting.**

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**Town Council Agenda  
11/19/2013**





**Item 4 a.**

**Proclamations**

**4 b.**

**F. Martin Perry**

***(BACKUP NOT PROVIDED)***



## PROCLAMATION

### Honoring Everglades Farm Equipment Company

*WHEREAS, by supporting the Literacy Coalition of Palm Beach County's "2013 Read for the Record", Mayor David Browning and his wife Sharon, collaborated with the Coalition and Everglades Farm Equipment Company who provided their facilities as a venue for the reading of "Otis" by Loren Long; and*

*WHEREAS, many children from child care centers, schools, and libraries met on October 3, 2013 at the Everglades Farm Equipment Company where they were read "Otis" the story of a little tractor; and*

*WHEREAS, upon leaving, the students were pleased when each received a little surprise gift to take home; and*

*WHEREAS, following story time, helpers from The Farmer's Daughter Garden Center provided a magical tour of the beautiful plants and gardens and the animals that live there.*

*NOW, THEREFORE, be it proclaimed by the Town Council of the Town of Loxahatchee Groves assembled in regular session this 3rd day of December, 2013, that the Town is proud to express their appreciation for the help, participation, and generosity of the wonderful volunteers of Everglades Farm Equipment Company who helped make this day so special for a wonderful group of children.*



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*David Browning, Mayor*



## PROCLAMATION

### *Honoring The Farmer's Daughter Garden Center*

*WHEREAS, by supporting the Literacy Coalition of Palm Beach County's "2013 Read for the Record", Mayor David Browning and his wife Sharon collaborated with the Coalition and Farmer's Daughter Garden Center to participate in the activities following the reading of "Otis" by Loren Long; and*

*WHEREAS, many children from child care centers, schools, and libraries met on October 3, 2013 at the Everglades Farm Equipment Company where they were read "Otis" the story of a little tractor; and*

*WHEREAS, following story time, helpers from The Farmer's Daughter Garden Center provided a magical tour of the beautiful plants and gardens and the animals that live there; and*

*WHEREAS, upon leaving, each of the students were pleased when each received a little pumpkin to take home; and*

*NOW, THEREFORE, be it proclaimed by the Town Council of the Town of Loxahatchee Groves assembled in regular session this 3rd day of December, 2013, that the Town is proud to express their appreciation for the help, participation, and generosity of the wonderful volunteers from The Farmer's Daughter Garden Center who helped make this day so special for a wonderful group of children.*



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*David Browning, Mayor*



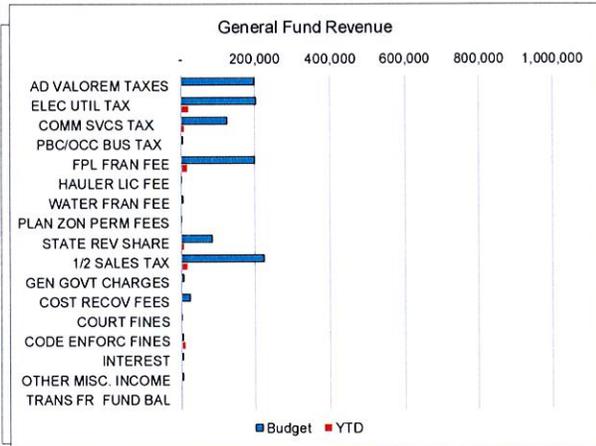
**Item 5 a.**

**Finance Advisory & Audit Committee Report**



**Town of Loxahatchee Groves**  
**Financial Activity Report as of October 31, 2013**  
 (8% of year elapsed)

**General Fund Revenue Budget**



General Fund Revenues			
Revenues	Budget	Year-to-Date	%
AD VALOREM TAXES @ 1.2000	197,297	-	0.0%
ELECTRIC UTILITY TAX	203,000	22,312	11.0%
COMMUNICATION SERVICES TAX	125,446	9,020	7.2%
COUNTY OCCUPATIONAL LICENSES	5,000	2,684	53.7%
FPL FRANCHISE FEE	200,000	17,546	8.8%
HAULER LICENSE FEE	2,000	505	25.3%
PBC WATER UTILITY FRANCHISE	5,000	-	0.0%
PLANNING & ZONING PERMIT FEES	100	480	480.0%
STATE REVENUE SHARING	85,446	6,439	7.5%
HALF CENT SALES TAX	224,014	17,160	7.7%
GENERAL GOVERNMENT CHARGES	7,000	835	11.9%
COST RECOVERY FEES	25,000	1,746	7.0%
COURT FINES	2,500	-	-
CODE ENFORCEMENT FINES	5,000	9,648	193.0%
INTEREST	5,000	12	0.2%
OTHER MISC. INCOME	5,000	-	0.0%
TRANSFER FROM FUND BALANCE*	-	-	-
<b>Total Revenues</b>	<b>1,096,803</b>	<b>88,388</b>	<b>8.1%</b>

General Fund Expenditures			
Expenditures	Budget	Year-to-Date	%
LEGISLATIVE	103,885	3,870	3.7%
EXECUTIVE	285,230	23,372	8.2%
FINANCIAL AND ADMINISTRATIVE	24,250	910	3.8%
LEGAL COUNSEL	90,000	4,728	5.3%
COMPREHENSIVE PLANNING & ZONING	170,042	14,071	8.3%
OTHER GENERAL GOVERNMENT	128,665	23,212	18.0%
LAW ENFORCEMENT	280,781	23,357	8.3%
PUBLIC WORKS	14,000	53	0.4%
<b>Total Expenditures</b>	<b>1,096,853</b>	<b>93,572</b>	<b>8.5%</b>
Excess(deficiency)	(50)	(5,184)	

**YTD-Total Funds Expen. Budget**

Expenditures	Budget	Year-to-Date	%
<b>Total Townwide Budget</b>	<b>4,550,949</b>	<b>140,597</b>	<b>3.1%</b>

**Selected Other Funds**

Transportation Fund	Budget	Year-to-Date	%
FIRST LOCAL OPTION FUEL TAX (6 CENT)	249,245	20,481	8.2%
SECOND LOCAL OPTION FUEL (5 CENT)	117,326	10,006	8.5%
CONTRIBUTION FROM GENERAL FUND	-	-	-
TRANSFER FROM FUND BALANCE	856,191	-	-
<b>Total Revenues</b>	<b>1,222,762</b>	<b>30,488</b>	<b>2.5%</b>
TRAFFIC CONTROL SIGNS (6 CT) MAINT.	6,000	-	0.0%
TOWN ROADS (6 CT) MAINT.	93,245	2,207	2.4%
DISTRICT ROADS (6 CT) MAINT.	150,000	-	0.0%
ROADS AND STREETS (5 CT)	-	-	-
SPECIAL PROJECTS (6 CT)	-	-	0.0%
148th TERR BRIDGE(5)/CULVERT	-	-	-
CONSTRUCTION TOWN RDS & STREETS	-	-	-
TRANSFER TO CIP FUND	973,517	-	0.0%
<b>Total Expenses</b>	<b>1,222,762</b>	<b>2,207</b>	<b>0.2%</b>
Excess(deficiency)	-	<b>28,281</b>	

Solid Waste Fund	Budget	Year-to-Date	%
SOLID WASTE ASSESSMENTS	432,873	-	0.0%
DISCOUNT FEES	(12,103)	-	0.0%
SWA RECYCLING INCOME	8,000	669	8.4%
CONTRIBUTION FROM GENERAL FUND	-	-	-
<b>Total Revenues</b>	<b>428,770</b>	<b>669</b>	<b>0.2%</b>
CONTRACTUAL-WASTE OVERSIGHT	7,010	1,352	19.3%
PBC ADMINISTRATION FEE 1%	4,460	-	0.0%
POSTAGE & FREIGHT	500	-	5.6%
SOLID WASTE CONTRACTOR	415,800	37,636	9.1%
OTHER SANITATION SERVICES	-	-	0.0%
LEGAL ADVERTISING	1,000	-	0.0%
MANAGEMENT FEES	-	-	-
<b>Total Expenses</b>	<b>428,770</b>	<b>38,988</b>	<b>9.1%</b>
Excess(deficiency)	-	<b>(38,319)</b>	

Capital Improvement Program (CIP) Fund	Budget	Year-to-Date	%
CONTRIBUTION FROM GENERAL FUND	973,517	-	0.0%
TRANSFER FROM FUND BALANCE	829,047	-	0.0%
<b>Total Revenues</b>	<b>1,802,564</b>	<b>-</b>	<b>0.0%</b>
Develop Town Hall Alternatives	-	-	-
Surveying Town Roads	100,000	5,830.00	5.8%
OGEM Collecting Canal Road	943,630	-	-
Okeechobee and D Road Traffic Light	250,000	-	-
Town Roads OGEM Projects	100,000	-	-
Trails	80,000	-	-
D Road to Southern Blvd	300,000	-	-
Purchase Roads from LGWCD	28,934	-	-
<b>Total Expenses</b>	<b>1,802,564</b>	<b>5,830</b>	

**Contract Services Expenditures**

Expenditures	Budget	Year-to-Date	%
Waste Pro	415,800	37,636	9.1%
Palm Beach County Sheriff	280,281	23,357	8.3%
Underwood Management Services Group	373,148	28,737	7.7%
Goren, Cherof, Doody, Ezrol	90,000	5,192	5.8%
Tew & Associates	35,000	4,646	13.3%
Land Research Management	20,000	1,281	6.4%
Engineering Services	-	5,830	
Frank Schiola	25,000	1,974	7.9%
YEE's Corporation	10,800	900	8.3%
Loxahatchee Water Control District	178,934	1,744	1.0%
<b>Total Expenses</b>	<b>1,428,963</b>	<b>111,297</b>	



**BUDGET VS ACTUAL**  
 as of OCT 30, 2013  
 8% Elapsed  
 General Fund  
 Revenues

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
001-311-100-000	Ad Valorem Taxes	-	-	-	197,297	(197,297.00)	0.0%
	<b>Ad Valorem Taxes Subtotal</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>197,297</b>	<b>(197,297.00)</b>	
001-314-100-000	Electric Utility Tax	22,311.92	22,311.92	-	203,000	(180,688.08)	11.0%
001-315-100-000	Communications Services	9,020.23	9,020.23	-	125,446	(116,425.77)	7.2%
001-316-200-000	County Occupational License	2,684.28	2,684.28	-	5,000	(2,315.72)	53.7%
	<b>Local Taxes Subtotal</b>	<b>34,016.43</b>	<b>34,016.43</b>	<b>-</b>	<b>333,446</b>	<b>(299,429.57)</b>	
001-323-100-000	FPL Franchise Fee	17,545.93	17,545.93	-	200,000	(182,454.07)	8.8%
001-323-125-000	Haulers License Fee	505.00	505.00	-	2,000	(1,495.00)	25.3%
001-323-300-000	PBC Water Utility Franchise	-	-	-	5,050	(5,050.00)	0.0%
001-329-100-000	Planning & Zoning Permit	480.00	480.00	-	100	380.00	480.0%
	<b>Permits, Franchise Fees &amp; Special Subtotal</b>	<b>18,530.93</b>	<b>18,530.93</b>	<b>-</b>	<b>207,150</b>	<b>(188,619.07)</b>	
001-335-120-000	State Revenue Sharing	6,438.71	6,438.71	-	85,446	(79,007.29)	7.5%
001-335-180-000	Half Cent Sales Tax	17,160.42	17,160.42	-	224,014	(206,853.58)	7.7%
	<b>Intergovernmental Revenue Subtotal</b>	<b>23,599.13</b>	<b>23,599.13</b>	<b>-</b>	<b>309,460</b>	<b>(285,860.87)</b>	<b>7.6%</b>
001-341-000-000	General Government Charges	835.10	835.10	-	7,000	(6,164.90)	11.9%
001-343-349-000	Cost Recovery Fees	1,745.85	1,745.85	-	25,000	(23,254.15)	7.0%
	<b>Charges for Services Subtotal</b>	<b>2,580.95</b>	<b>2,580.95</b>	<b>-</b>	<b>32,000</b>	<b>(29,419.05)</b>	
001-351-100-000	Court Fines	-	-	-	2,500	(2,500.00)	
001-354-100-000	Code Enforcement Fines	9,647.50	9,647.50	-	5,000	4,647.50	193.0%
	<b>Code Enforcement Fines Subtotal</b>	<b>9,647.50</b>	<b>9,647.50</b>	<b>-</b>	<b>7,500</b>	<b>2,147.50</b>	
001-361-100-000	Interest	12.41	12.41	-	5,000	(4,987.59)	0.3%
001-369-000-000	Other Misc Income	-	-	-	5,000	(5,000.00)	0.0%
	<b>Other Misc Revenue Subtotal</b>	<b>12.41</b>	<b>12.41</b>	<b>-</b>	<b>10,000</b>	<b>(9,987.59)</b>	
001-399-000-000	Transfer from Fund Balance*	-	-	-	-	-	100.0%
	<b>Other Non-operating Sources Subtotal</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	
	<b>Grand Total Revenue</b>	<b>88,387.35</b>	<b>88,387.35</b>	<b>-</b>	<b>1,096,853</b>	<b>(1,008,465.65)</b>	<b>8.1%</b>

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**TOWN OF LOXAHATCHEE GROVES**  
**BUDGET VS ACTUAL**  
 as of OCT 30, 2013  
 8% Elapsed  
 General Fund  
 Expenditures

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
001-511-310-000	Professional Services	-	-	-	60,000	60,000.00	0.0%
001-511-400-000	Travel	-	-	-	3,000	3,000.00	0.0%
001-511-492-000	Other Operating Expenses	-	-	-	1,500	1,500.00	0.0%
001-511-499-000	Other Current Charges - Council Reimbursement	2,500.00	2,500.00	-	30,000	27,500.00	8.3%
001-511-500-000	Education & Training	-	-	-	1,000	1,000.00	0.0%
001-511-510-000	Office Supplies	-	-	-	300	300.00	0.0%
001-511-520-000	Operating Supplies	-	-	-	300	300.00	0.0%
001-511-540-000	Books, Publications & Subscriptions	1,370.00	1,370.00	-	2,435	1,065.00	56.3%
001-511-820-000	Special Events/Contributions	-	-	-	5,350	5,350.00	0.0%
	<b>Legislative Total</b>	<b>3,870.00</b>	<b>3,870.00</b>	<b>-</b>	<b>103,885</b>	<b>100,015.00</b>	<b>3.7%</b>
001-512-340-000	Other Services	22,008.83	22,008.83	-	264,106	242,097.17	8.3%
001-512-400-000	Travel	166.61	166.61	-	1,000	833.39	16.7%
001-512-420-000	Postage & Freight - NEW	71.96	71.96	-	1,000	928.04	7.2%
001-512-490-000	Legal Advertising	141.60	141.60	-	1,000	858.40	14.2%
001-512-492-000	Other Operating Expenses	5.00	5.00	-	944	939.00	0.5%
001-512-493-000	Election Expense	-	-	-	8,010	8,010.00	0.0%
001-512-510-000	Office Supplies	977.61	977.61	-	8,600	7,622.39	11.4%
001-512-540-000	Books, Publications & Subscriptions	-	-	-	570	570.00	0.0%
	<b>Executive Total</b>	<b>23,371.61</b>	<b>23,371.61</b>	<b>-</b>	<b>285,230</b>	<b>261,858.39</b>	<b>8.2%</b>
001-513-320-000	Accounting and Auditing	-	-	-	18,000	18,000.00	0.0%
001-513-470-000	Printing and Binding	-	-	-	4,750	4,750.00	0.0%
001-513-490-000	Legal Advertising	910.00	910.00	-	1,500	590.00	60.7%
001-513-493-000	Election Expense (moved)	-	-	-	-	-	0.0%
	<b>Financial &amp; Administrative Total</b>	<b>910.00</b>	<b>910.00</b>	<b>-</b>	<b>24,250</b>	<b>23,340.00</b>	<b>3.8%</b>
001-514-310-000	Professional Services	4,727.50	4,727.50	-	90,000	85,272.50	5.3%
	<b>Legal Total</b>	<b>4,727.50</b>	<b>4,727.50</b>	<b>-</b>	<b>90,000</b>	<b>85,272.50</b>	<b>5.3%</b>

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**TOWN OF LOXAHATCHEE GROVES**  
**BUDGET VS ACTUAL**  
**AS OF OCT 31, 2013**  
 8% Elapsed  
 General Fund  
 Expenditures

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
001-515-310-000	Professional Services	5,507.50	5,507.50	-	40,000	34,492.50	13.8%
001-515-340-000	Other Services	6,586.83	6,586.83	-	79,042	72,455.17	8.3%
001-515-343-000	Planning & Zoning Contract	-	-	-	20,000	-	0.0%
001-515-347-000	Comprehensive Plan	-	-	-	-	-	0.0%
001-515-349-000	Cost Recovery Expenditure	1,745.85	1,745.85	-	25,000	23,254.15	7.0%
001-515-490-000	Legal Advertising - NEW	230.48	230.48	-	6,000	5,769.52	3.8%
	<b>Comprehensive Planning &amp; Zoning Total</b>	<b>14,070.66</b>	<b>14,070.66</b>		<b>170,042</b>	<b>135,971.34</b>	<b>8.3%</b>
001-519-315-000	Special Magistrate	1,929.08	1,929.08	-	16,000	14,070.92	12.1%
001-519-354-000	Code Compliance	3,559.75	3,559.75	-	41,000	37,440.25	8.7%
001-519-410-000	Communications Services	782.95	782.95	-	5,700	4,917.05	13.7%
001-519-440-000	Rentals and Leases	1,281.57	1,281.57	-	20,000	18,718.43	6.4%
001-519-450-000	Insurance	15,111.00	15,111.00	-	18,000	2,889.00	84.0%
001-519-460-000	Repair & Maint - Building	200.00	200.00	-	2,450	2,250.00	8.2%
001-519-470-000	Printing and Binding	-	-	-	-	-	0.0%
001-519-480-000	Promotional Activities	-	-	-	-	-	0.0%
001-519-490-000	Computer Repair	-	-	-	2,500	2,500.00	0.0%
001-519-491-000	Computer Services	140.00	140.00	-	3,631	3,491.00	3.9%
001-519-494-000	Inspector General Office	-	-	-	5,280	5,280.00	0.0%
001-519-810-000	Aids to Govt Agencies Grant - LGWCD	-	-	-	-	-	-
001-519-820-000	Loxahatchee Groves CERT	208.00	208.00	-	2,000	1,792.00	10.4%
001-519-900-000	Transfer to Transportation Fund	-	-	-	-	-	0.0%
001-519-910-000	Transfer to Sanitation Fund	-	-	-	-	-	-
001-519-920-000	Transfer to Capital Projects	-	-	-	-	-	-
001-519-990-000	Contingency	-	-	-	12,104	-	0.0%
	<b>Other Governmental Services Total</b>	<b>23,212.35</b>	<b>23,212.35</b>		<b>128,665</b>	<b>93,348.65</b>	<b>18.0%</b>
001-521-341-000	Professional Services-PBSO	23,356.75	23,356.75	-	280,281	256,924.25	8.3%
001-521-342-000	Contractual-ADDL PBSO	-	-	-	500	500.00	0.0%
	<b>Law Enforcement Total</b>	<b>23,356.75</b>	<b>23,356.75</b>		<b>280,781</b>	<b>257,424.25</b>	<b>8.3%</b>
001-539-310-000	Other Services	-	-	-	-	-	0.0%
001-539-340-000	Professional Services	53.00	53.00	-	14,000	13,947.00	0.4%
	<b>Public Works Total</b>	<b>53.00</b>	<b>53.00</b>		<b>14,000</b>	<b>13,947.00</b>	<b>0.4%</b>
	<b>Grand Total Expenditure</b>	<b>93,571.87</b>	<b>93,571.87</b>		<b>1,096,853</b>	<b>971,177.13</b>	<b>8.5%</b>
	<b>Net Revenue</b>	<b>(5,184.52)</b>	<b>(5,184.52)</b>				

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**TOWN OF LOXAHATCHEE GROVES**  
**BUDGET VS ACTUAL**  
**AS OF OCT 31, 2013**  
 8% Elapsed  
 Transportation Fund  
 Revenues

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
101-312-410-000	1st Local Option Fuel Tax	20,481.34	20,481.34	-	249,245	(228,763.66)	8.2%
101-312-420-000	2nd Local Option Fuel Tax	10,006.22	10,006.22	-	117,326	(107,319.78)	8.5%
101-363-990-000	Contribution from General Fund	-	-	-	-	-	0.0%
101-399-000-000	Transfer from Fund Balance	-	-	-	856,191	(856,191.00)	0.0%
<b>Total Revenue</b>		<b>30,487.56</b>	<b>30,487.56</b>		<b>1,222,762</b>		<b>2.5%</b>

**Transportation Fund**  
**Expenditures**

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
101-541-467-000	Traffic Control Signs (6 ct) Maint.	-	-	-	6,000	6,000.00	0.0%
101-541-468-000	Non-District Roads (6 ct) Maint.	2,207.20	2,207.20	-	93,245	91,037.80	2.4%
101-541-469-000	District Roads (6 ct) Maint.	-	-	-	150,000	150,000.00	0.0%
101-541-631-000	Road and Streets (5 cent)	-	-	-	-	-	0.0%
101-541-632-000	Special Projects (6 cent)	-	-	-	-	-	0.0%
101-541-634-000	148th Terr Bridge (5)/Culvert	-	-	-	-	-	0.0%
101-541-636-000	Construct Town Rds & Sts	-	-	-	-	-	0.0%
101-541-920-000	Transfer to Capital Projects	-	-	-	973,517	973,517.00	
101-541-990-000	Transfer to Fund Balance	-	-	-	-	-	0.0%
101-541-996-000	Transfer to Fund Balance	-	-	-	-	-	0.0%
<b>Total Expenditure</b>		<b>2,207.20</b>	<b>2,207.20</b>	<b>-</b>	<b>1,222,762</b>		<b>0.2%</b>
<b>Net Revenue</b>		<b>28,280.36</b>	<b>28,280.36</b>		<b>-</b>	<b>-</b>	



**TOWN OF LOXAHATCHEE GROVES**  
**BUDGET VS ACTUAL**  
**AS OF OCT 31, 2013**  
 8% Elapsed  
**Capital Improvement Program**  
**Revenues**

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
305-363-990-000	Contributions from General Fund	-	-	-	-	-	0.0%
305-363-991-000	Contributions from Transportation Fund	-	-	-	973,517	(973,517.00)	
305-399-000-000	Transfer from Fund Balance	-	-	-	829,047	(829,047.00)	0.0%
	<b>Total Revenue</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,802,564</b>	<b>(1,802,564.00)</b>	<b>0.0%</b>

**Capital Improvement Program**  
**Expenditures**

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
305-519-600-000	Develop Town Hall Alternatives	-	-	-	-	-	0.0%
305-541-610-000	Surveying Town Roads	5,830	5,830	-	100,000	94,170.00	0.0%
305-541-620-000	OGEM Collecting Canal Road	-	-	-	943,630	943,630.00	0.0%
305-541-630-000	Okeechobee and D Road Traffic Light	-	-	-	250,000	250,000.00	0.0%
305-541-640-000	Town Roads OGEM Projects	-	-	-	100,000	100,000.00	0.0%
305-541-650-000	Trails	-	-	-	80,000	80,000.00	0.0%
305-541-652-000	D Road to Southern Blvd	-	-	-	300,000	300,000.00	0.0%
305-541-654-000	Purchase Roads from LGWCD	-	-	-	28,934	28,934.00	0.0%
	<b>Total Expenditure</b>	<b>5,830</b>	<b>5,830</b>	<b>-</b>	<b>1,802,564</b>	<b>1,796,734</b>	<b>0.3%</b>
	<b>Net Revenue</b>	<b>5,830.00</b>	<b>(5,830.00)</b>		<b>-</b>	<b>(5,830.00)</b>	



**TOWN OF LOXAHATCHEE GROVES**  
**BUDGET VS ACTUAL**  
**AS OF OCT 31, 2013**  
 8% Elapsed  
**Solid Waste Fund**  
**Revenues**

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
405-323-125-000	Haulers Licensing Fee - MOVED TO GF	-	-	-	-	-	0.0%
405-325-205-000	Solid Waste Assessments	-	-	-	432,873	(432,873.00)	0.0%
405-325-206-000	Discount Fees	-	-	-	(12,103)	12,103.00	0.0%
405-343-120-000	SWA Recycling Income	669.16	669.16	-	8,000	(7,330.84)	8.4%
405-363-990-000	Contributions from General Fund	-	-	-	-	-	0.0%
	<b>Total Revenue</b>	<b>669.16</b>	<b>669.16</b>	<b>-</b>	<b>428,770</b>	<b>(428,100.84)</b>	<b>0.2%</b>

Account Number	Account	Month to Date	Year to Date	Encumbrance	Annual Budget	Annual Variance	% Used
405-534-345-000	Contractual - Waste Over	1,351.50	1,351.50	-	7,010	5,658.50	19.3%
405-534-346-000	PBC Administration Fee 1	-	-	-	4,460	4,460.00	0.0%
405-534-420-000	Postage & Freight	-	-	-	500	500.00	0.0%
405-534-434-000	Solid Waste Contractor	37,636.20	37,636.20	-	415,800	378,163.80	9.1%
405-534-436-000	Other Sanitation Service	-	-	-	-	-	0.0%
405-534-490-000	Legal Advertising	-	-	-	1,000	1,000.00	0.0%
405-534-595-000	TOLG Management Fee	-	-	-	-	-	0.0%
	<b>Total Expenditure</b>	<b>38,987.70</b>	<b>38,987.70</b>	<b>-</b>	<b>428,770</b>	<b>389,782.30</b>	<b>9.1%</b>
	<b>Net Revenue</b>	<b>(38,318.54)</b>	<b>(38,318.54)</b>		<b>-</b>		



**Item 6 a.**

**Resolution 2013-17/ SOE Agreement**

**2014 Municipal Election**

**TOWN OF LOXAHATCHEE GROVES**

**RESOLUTION NO. 2013-17**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, DESIGNATING THE DATE, TIME AND PLACE TO QUALIFY AND FILE FOR THE OFFICE OF TOWN COUNCIL MEMBER FOR SEAT 5 PRIOR TO THE MUNICIPAL GENERAL ELECTION TO BE HELD ON TUESDAY, MARCH 11, 2014, PURSUANT TO THE TOWN CHARTER AND CHAPTERS 97 – 106, FLORIDA STATUTES; THE ELECTION FILING PERIOD OPENS PROMPTLY AT 12:00 NOON ON JANUARY 28, 2014 AND CLOSSES PROMPTLY AT 12:00 NOON ON FEBRUARY 4, 2014; SETTING FILING FEES; AUTHORIZING THE TOWN CLERK TO APPOINT ELECTION BOARDS FOR ELECTION PRECINCT 6094; AUTHORIZING THE SUPERVISOR OF ELECTIONS TO CONDUCT THE TOWN ELECTION AND APPROVING THE AGREEMENT BETWEEN THE TOWN AND THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS FOR ELECTION SERVICES; AUTHORIZING THE TOWN CLERK OR DESIGNEE TO HANDLE CERTAIN ELECTION MATTERS; OPTING OUT OF EARLY VOTING; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Loxahatchee Groves shall conduct its annual Municipal General Election on Tuesday, March 11, 2014, pursuant to the Town Charter, the Florida Constitution and Chapter 97 – Chapter 106, Florida Statutes.

**WHEREAS**, one polling place is provided for the Town, Precinct 6094, and shall be open between the hours of 7:00 a.m. - 7:00 p.m. on Election Day, March 12, 2013; and

**WHEREAS**, registered voters shall have the opportunity to cast their vote for candidates who have filed and qualified for the Office Town Council Member Seat 5, pursuant to the Town Charter of the Town of Loxahatchee Groves, Palm Beach County, Florida

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THAT:**

**Section 1.** Any qualified elector [registered voter] of the Town of Loxahatchee Groves, Florida, who is qualified to hold an elective office under the Charter and Code of Ordinances of the Town of Loxahatchee Groves, Florida, and who desires to become a candidate for the Office of Town Council Member for Seat 5 shall file with the Municipal Filing Officer [Town Clerk], a fully executed Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates [DS-DE 9] form; provide a Notice of Intent that his/her name be placed upon the ballot for election to declare themselves a bona fide candidate for such office; and file other forms necessary to be declared a candidate for the Office of Town Council Member for Seat 5.

**Section 2.** The Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates [DS-DE 9] that has been executed and signed by the candidate and accepted and signed by the Campaign Treasurer); the written Notice of Intent to Seek Election for Office of Town Council Member for Seat 5; and other required documents must be provided by the candidate to the Municipal Filing Officer [Town Clerk] during the Filing and Qualifying Period that opens promptly at 12:00 Noon, Tuesday, January 28, 2014 and closes promptly at 12:00 Noon, Tuesday, February 5, 2014.

**Section 3.** Each person seeking to qualify for nomination or election to a municipal office shall pay, at the time of qualifying for office, an election assessment. The election assessment shall be an amount equal to 1 percent of the annual salary of the office sought. There is not a local filing fee for the Town of Loxahatchee Groves.

**Section 4.** Pursuant to Section 3 of the Town Charter, each candidate for the Office of Town Council Member for Seat 5 shall be a qualified elector [registered voter]. All candidates for the Office of Town Council Member for Seat 5 must be a resident of the Town of Loxahatchee Groves for at least one (1) year prior to qualifying.

**Section 5.** Precinct 6094 is hereby authorized for the Municipal Election to be held on Tuesday, March 11, 2014, for the Office of Town Council Member for Seat 5, which is within the Town of Loxahatchee Groves, Florida.

**Section 6.** The Town Council requests and authorizes the Palm Beach County Supervisor of Elections to conduct its municipal election consistent with the Town Charter, Florida law, the Agreement between the Town and the Palm Beach County Supervisor of Elections, attached hereto as Exhibit “A” and hereby approved, and this resolution.

**Section 7.** The Town Clerk, or her designee, is authorized to attend, and to the extent necessary represent, the Town and its Canvassing Board at all Logic and Accuracy Tests and on election night at the offices of the Palm Beach County Supervisor of Elections’ Office.

**Section 8.** Upon closing the polls at 7:00 p.m. on Tuesday, March 11, 2014, the Town Clerk shall ensure the secure transport of the paper ballots cast and appropriate cartridges to the Palm Beach County Supervisor of Election’s Office, and the electronic transmission of election information as necessary or required by the Palm Beach County Supervisor of Elections. Upon the receipt of all optical scanned voting ballots and cartridges and provisional ballots, the Palm Beach County Supervisor of Elections shall count all the ballots, including the absentee ballots, optical scanned paper ballots, and provisional ballots for all Precincts located within the Town of Loxahatchee Groves.

**Section 9.** Upon the Town Clerk’s receipt of the Municipal Election Results from the Palm Beach County Supervisor of Elections, the Town’s Canvassing Board shall meet as soon as practicable to canvass and certify the election results. The candidate(s) for the Office of Town Council Member for Seat 5 receiving the highest number of votes validly cast shall be declared elected. In the event of a tie vote, a runoff election shall be held pursuant to Town Charter, Section 7(c). Following the Canvassing Board’s certification, each newly elected Town Council Member shall be administered the Oath of Office and assume the duties of the office with a

ceremonial induction occurring at the next regular meeting of the Town Council following the General Election held in accordance with Section 7(e) of the Town Charter.

**Section 10.** That for purposes of this election and any future municipal election, the Town Council hereby determines that due to the ability of registered voters to cast absentee ballots for a municipal election that early voting is not necessary for a municipal election, and that it is in the best interest of the Town to opt out of early voting for municipal elections.

**Section 11.** All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 12.** If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

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**Section 13.** This Resolution shall become effective immediately upon its passage and adoption.

**ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES THIS 3rd DAY OF DECEMBER, 2013.**

ATTEST:

TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

\_\_\_\_\_  
Janet K. Whipple, Town Clerk

\_\_\_\_\_  
Mayor David Browning

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Vice Mayor Ronald D. Jarriel

\_\_\_\_\_  
Michael D. Cirullo, Jr., Town Attorney

\_\_\_\_\_  
Council Member Tom Goltzené

\_\_\_\_\_  
Council Member Ryan Liang

\_\_\_\_\_  
Council Member Jim Rockett

EXHIBIT "A"

AGREEMENT FOR VOTE PROCESSING EQUIPMENT AND ELECTION SERVICES  
BY AND BETWEEN THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS  
AND THE TOWN OF LOXAHATCHEE GROVES

**AGREEMENT FOR VOTE PROCESSING EQUIPMENT USE AND ELECTION SERVICES  
BY AND BETWEEN  
THE PALM BEACH COUNTY SUPERVISOR OF ELECTIONS AND  
THE TOWN OF LOXAHATCHEE GROVES**

**THIS AGREEMENT**, is made and entered into this 3<sup>rd</sup> day of December, 2013 effective January 1, 2014, by and between the Palm Beach County Supervisor of Elections, an elected county officer pursuant to Article VIII, Sec.1(d) of the *Florida Constitution*, hereinafter referred to as the “SOE”, and the Town of Loxahatchee Groves, a municipal corporation, chartered and organized in accordance with the laws of the State of Florida, hereinafter referred to as the “Municipality”.

WITNESSETH:

**WHEREAS**, Chapters 97 to 106, *Florida Statutes*, constitute the Florida Election Code (the “Code”) which applies to municipalities where expressly so stated; and

**WHEREAS**, Sec 100.3605, *Florida Statutes*, states that “[T]he Florida Election Code, chapters 97-106 shall govern the conduct of a municipality’s election in the absence of an applicable special act, charter, or ordinance provision”; and

**WHEREAS**, the Municipality and the SOE desire to work together to provide for municipal elections and to allocate certain responsibilities and expenses between the two parties to ensure that the provisions of the Code are followed during municipal elections; and

**WHEREAS**, the SOE and the Municipality wish to enter into this Agreement to set out the terms of this coordinated program.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises hereinafter contained to be kept and performed by the parties hereto, and for the mutual benefit of the Municipality, its constituents and the SOE, it is agreed as follows:

1. **PURPOSE:**

The purpose of this Agreement is to set forth the terms and conditions under which services will be provided by the SOE and staff to the Municipality for municipal elections and to set forth the responsibilities of both parties so that there is a clear understanding of the rights and responsibilities of all parties. Such rights and responsibilities shall apply to the General, Run-Off, Special and Recount elections as necessary as well as the Post-Election Audit, unless otherwise stated herein below.

2. **DATE OF GENERAL MUNICIPAL ELECTION:**

The date of The Town of Loxahatchee Groves’ General Municipal election is March 11, 2014. It is hereby acknowledged and agreed that if the date listed is the same as most other municipalities in March or November, there will be a cost sharing among municipalities for costs incurred by the SOE. Such costs shall be allocated on a pro-rata share basis; otherwise, it is hereby acknowledged and agreed upon by the municipality that it is responsible for all costs of the election, incurred by the office of the SOE.

3. **FEES AND CHARGES TO BE PAID BY THE MUNICIPALITY:**

The SOE hereby agrees not to charge Municipalities for taxpayer purchased equipment and supplies; (i.e. voting machines, tables, chairs, etc.) and associated maintenance and contract fees related to such equipment in return for which the Municipality hereby agrees not to charge the SOE for polling places within its dominion and control. Examples of municipal elections charges related to certain services performed by the SOE to be passed through to the Municipality on a shared pro rata basis for all municipalities holding elections on a general election day (i.e. 2<sup>nd</sup> Tuesday in March or November) are attached hereto as Exhibit "A". All items to be paid or reimbursed to the SOE will be paid by the Municipality within thirty (30) days of receipt of an invoice from the SOE with documentation verifying the charges.

Examples of total costs to small, medium and large municipalities are attached hereto as Exhibit "B".

4. **RESPONSIBILITIES OF BOTH THE MUNICIPALITY AND THE SOE FOR MUNICIPAL ELECTIONS:**

A. **Notice and Advertisement**

(1) **Municipality**

- (a) Properly call and advertise the election according to statutes and charter at its own expense.
- (b) Issue a resolution or ordinance to the SOE requesting that the Supervisor of Elections conduct the municipality's election and act as a member of the Municipality's Canvassing Board, which may or may not include the SOE.
- (c) Certify that the registered voter information provided by the SOE to the municipality reflects the proper boundaries of the Town and notify the SOE of any changes.

(2) **SOE**

- (a) Publish legal notices for Logic & Accuracy testing, absentee ballot canvass, Post-Election Audit and news releases on book closing.

B. **Qualifying Candidates**

(1) **Municipality**

- (a) Provide qualifying packets to candidates and accept and process all qualifying papers and fees.
- (b) Collect Name and Pronunciation Guides from the candidates at the time of qualifying and submit to SOE.
- (c) Respond to all candidate inquiries and questions.
- (d) Respond to all legal inquiries and questions.
- (e) Respond to all media inquiries.

(2) **SOE**

- (a) Verify signatures on any qualifying petitions submitted by candidates and notify the Municipality of such results upon the close of the candidate qualifying deadline.

## **C. Ballots**

### **(1) Municipality**

- (a) Review, amend (if necessary) and approve ballot proof prepared by SOE.
- (b) Place an order with the SOE for a sufficient quantity of ballots as applicable.
- (c) Pay ballot design costs to the SOE as incurred.
- (d) Pay the ballot printer directly for the cost of said ballots.
- (e) Reimburse the SOE for costs incurred for translation and audio recording of ballot.
- (f) Reimburse SOE for preparation of Absentee Ballot, Edge Layout and Sample Ballot.

### **(2) SOE**

- (a) Layout, check, proof and deliver ballot layout to the printer.
- (b) Receive, securely store, and account for all ballots until disbursed to polling places.
- (c) Contract to have audio recorded for Touch Screen ballot.
- (d) Control all access to un-voted ballots while in the possession of the SOE.

## **D. Equipment Testing**

### **(1) Municipality**

- (a) Provide that a representative will be present during the Logic and Accuracy testing as noticed by SOE.

### **(2) SOE**

- (a) Develop a unique test script and manually mark ballots to be used in public Logic & Accuracy test.
- (b) Conduct public Logic & Accuracy test.

## **E. Early Voting – Optional**

### **(1) Municipality**

- (a) Reimburse the SOE for staff overtime hours due to weekend and/or evening hours for Early Voting.
- (b) Pay SOE for Early Voting supplies.
- (c) Contract with, schedule, and pay poll workers directly.
- (d) Deliver voted ballots to SOE daily at a location designated by SOE.
- (e) Designate Early Voting sites thirty (30) days prior to each Election and notify SOE in writing of locations.

### **(2) SOE**

- (a) Prepare and provide all supplies needed for each Early Voting site.
- (b) Provide the Municipality with a list of poll workers.
- (c) Train poll workers.
- (d) Provide staffing to accept voted ballots daily at a location designated by SOE.

## **F. Absentee Voting**

### **(1) Municipality**

- (a) Reimburse SOE for all postage costs incurred at the current postal rate.
- (b) Pay SOE for materials and handling of each absentee ballot.
- (c) Pay SOE \$.10 per absentee ballot for verifying signatures on returned voted ballot certificates.
- (d) Refer all requests for absentee ballots to SOE.

### **(2) SOE**

- (a) Determine eligibility and compile Absentee Ballot file.
- (b) Accept all requests for Absentee Ballots by telephone, mail or in person.
- (c) Prepare and mail Absentee Ballots.
- (d) Deliver Absentee Ballots to the Post Office.
- (e) Receive voted Absentee Ballots.
- (f) Verify signatures on returned voted Absentee Ballot certificates.
- (g) Prepare and open Absentee Ballots for tabulation.
- (h) Account for all Absentee Ballots.
- (i) Notify Absentee Ballot voter and provisional voters of the disposition of the Canvassing Board as required by law.
- (j) Record Absentee Ballot returns to voter history.
- (k) Conduct public testing of Logic and Accuracy for Absentee Ballot tabulating equipment.
- (l) Provide qualified staff to operate tabulation equipment to count Absentee Ballots.

## **G. Polling Places**

### **(1) Municipality**

- (a) Arrange for the use of an adequate number of polling places.
- (b) Confirm polling place accessibility and ADA compliance.
- (c) Notify SOE in writing thirty (30) days prior to election of the need for tables and chairs if necessary.
- (d) Notify SOE of polling locations to be used no later than noon the Friday after the municipal candidate qualifying deadline.
- (e) Notify the SOE not less than 30 days prior to the election that a polling place will be moved to another site.
- (f) Notify voters, as required by law, if their regular polling place is to be temporarily relocated.

### **(2) SOE**

- (a) Provide the Municipality with a list of polling places and SOE contract.
- (b) Provide tables and chairs upon written notice from the Municipality when required.
- (c) Provide polling place supplies, i.e. signs, cones, etc.
- (d) Notify voters and the Municipality of permanent polling place change(s).

## **H. Precinct Supplies**

### **(1) Municipality**

- (a) Pay SOE for precinct supplies provided.
- (b) Provide a secure place for precinct clerks to return supplies and voted ballots on election night.
- (c) Pay SOE for the production of Precinct Registers or for programming electronic poll books.
- (d) Pay directly to the SOE's contracted moving company to have voting equipment delivered and picked up from polling place no later than the day before the election and returned after the election.

### **(2) SOE**

- (a) Provide Precinct Registers, or electronic poll books, for each polling place location.
- (b) Provide Master CD compilation of registered voters for precinct advisors, or provide up to date electronic poll books.
- (c) Provide certification of registered voters after book closing.
- (d) Prepare equipment, cabinets and routing of voting equipment delivery.
- (e) Provide laptop computer at each polling place, or electronic poll books.
- (f) Provide CD of voter file database for each polling place, or up to date electronic poll books.
- (g) Provide poll worker Clerks with cell phones.
- (h) Provide Provisional Ballot envelopes and affidavit forms for each polling place.
- (i) Provide secrecy sleeves in a number and amount appropriate for each polling place.

## **I. Poll Workers**

### **(1) Municipality**

- (a) Contact, contract with and pay poll workers directly (using only poll workers who are currently on the SOE list, or individuals who have successfully completed required training).
- (b) Schedule and notify poll workers of training classes.
- (c) Reimburse SOE for expenses incurred for delivery and pick up of equipment to training locations.
- (d) Reimburse SOE for expenses incurred in printing training material.
- (e) Reimburse SOE for expenses incurred for trainers to train poll workers.
- (f) Reimburse SOE for expenses incurred for contracted training locations.

### **(2) SOE**

- (a) Provide the Municipality with a list of current poll workers.
- (b) Develop poll worker training schedule.
- (c) Plan and contract for training classes and locations.
- (d) Contract with and pay trainers to train poll workers.
- (e) Provide printed training materials for poll workers.

## **J. Election Day Support**

### **(1) Municipality**

- (a) Verify that all polling places are available to poll workers no later than 6:00 a.m. and open for voting promptly at 7:00 a.m. on Election Day.

- (b) Ensure that all polling places remain open until 7:00 p.m. or until all voters who are in line to vote at 7:00 p.m. have completed voting.
- (c) Reimburse SOE for all phone bank costs.

(2) **SOE**

- (a) Assist in finding poll worker replacements if needed.
- (b) Provide technical support personnel as needed.
- (c) Provide phone bank support to respond to poll workers and voters on Election Day.

**K. Ballot Tabulation/Counting of Election Results**

(1) **Municipality**

- (a) Deliver all voted ballots and other necessary election related items to a place designated by the SOE after the polling places have closed on Election Day.
- (b) Deliver **all** voting machine cartridges to a place designated by the SOE after the polling places have closed on Election Day.
- (c) Reimburse the SOE for any staff overtime and other expenses in relation to the tabulation and processing of ballots on Election Day.
- (d) Act as member of Canvassing Board.

(2) **SOE**

- (a) Provide technical staff and required equipment to administer tabulation and election results.
- (b) Assist and act, or appoint a designee to assist and act on the SOE's behalf, as a member of the Municipality's Canvassing Board if desired by the municipality or act as a member of the County Canvassing Board if it canvasses the municipality's election, if allowed by law.
- (c) Post election results on SOE Web-Site and provide the same to Channel 20.
- (d) Provide the Municipal Clerk with unofficial election results upon conclusion of tabulation and canvassing of ballots cast on Election Day.

**L. Post Election Day**

(1) **Municipality**

(2) **SOE**

- (a) Provide the Municipal Clerk with an official certification of election results if allowed by law.
- (b) Store all necessary election records and ballots until the expiration of retention period prescribed by statutes.
- (c) Process polling place affirmation forms.
- (d) Sort, inventory, pack and store all election materials for retention and disposition.
- (e) Notify voters of the disposition of their Absentee or Provisional Ballots after the determination by the Canvassing Board, as required by law.
- (f) Respond to public records requests regarding records kept on behalf of the Municipality.
- (g) Record voting history for each voter who voted on Election Day.

## **M. Audit**

### **(1) Municipality**

- (a) Provide that the Municipal Clerk will be responsible for the administration of the audit.
- (b) Reimburse SOE for any staff time or other related expenses as may result from conducting the manual audit.

### **(2) SOE**

- (a) Organize precinct information to allow the Municipal Clerk to randomly select the race and precinct(s) that shall be audited.
- (b) Organize and prepare ballots for manual audit.
- (c) Provide SOE staff to conduct manual audit.
- (d) Ascertain and publically post manual audit result to SOE Web-Site.

## **N. Recount**

### **(1) Municipality**

- (a) Provide that the Municipal Clerk will be responsible for the administration of the Recount, with support and guidance from the SOE.
- (b) Act as a member of the Canvassing Board.
- (c) Notify the candidates of the time and date of the Recount.
- (d) Post public notice(s) of the Recount with the time and location.
- (e) Cause to have the Recount recorded and minutes kept and approved by the Canvassing Board.
- (f) Review with the Canvassing Board and the counting teams the statutes and rules of the Division of Elections, specifically Rule 1S-2.031. Recount Procedures; and Rule 1S-2.027. Standards for Determining Voter's Choice on a Ballot.
- (g) Reimburse the SOE for all staff salaries/overtime, facility and other expenses required to conduct the Recount.

### **(2) SOE**

- (a) Post public notice(s) of the Recount with the time and location.
- (b) Test tabulating equipment as required by Sec. 101.5612, *Florida Statutes*.
- (c) Provide counting teams for examining out stacked ballots.
- (d) Prepare and organize ballots for Recount processing.
- (e) Tabulate ballots and provide professional staff for equipment operations.
- (f) Provide official certification as determined by the Canvassing Board.

## **5. INDEMNITY:**

Each party to this agreement shall be liable for its own actions and negligence. To the extent permitted by law, the Municipality shall indemnify, defend and hold harmless SOE against any actions, claims or damages arising out of the Municipality's negligence in connection with performance under this Agreement; and the SOE shall indemnify, defend and hold harmless the Municipality against any actions, claims or damages arising out of the negligence of SOE in connection with its performance under this Agreement. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth at Sec. 768.28, *Florida Statutes*. In no case shall such limits for the Municipality extend beyond \$200,000 for any one person or beyond \$300,000 for any judgment which,

when totaled with all other judgments, arises out of the same incident or occurrence. These provisions shall not be construed to constitute agreement by either party to indemnify the other for such other's negligent, willful or intentional acts or omissions. In the event of litigation, trial or appellate, between the Municipality and the SOE relating to a municipal election governed by this Agreement, or otherwise in connection with the interpretation or application of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. Notwithstanding the above, the municipality shall defend legal challenges relating to its municipal election and shall be fully responsible for all legal costs including attorneys' fees for such defense of the Municipality and the SOE. The municipality shall be responsible for damages, if any, assessed by virtue of such lawsuit, up to the monetary limits provided for hereinabove without recourse to the SOE.

6. In the event of a Special Election, the municipality shall receive the approval of the Supervisor of Elections for the actual election date no later than 90 days prior to a Special Election unless otherwise provided in law. The expense of any Special Election shall include all actual costs incurred by the Supervisor of Elections, including hourly and salaried staff costs and other related election expenses as documented.

7. **TERM:**

This Agreement shall begin on the effective date January 1, 2014 and continue for a term of one year in order to cover Special Elections, if any, and may be modified by mutual agreement of the parties. Any proposed changes to this Agreement shall be provided to the municipalities no later than August 1 of the applicable year, or as soon as practicable.

8. **CHANGE IN LAW:**

In the event any change in law abrogates or modifies any provisions or applications of this Agreement, the parties hereto agree to enter into good faith negotiations and use their best efforts to reach a mutually acceptable modification of this Agreement.

9. **NOTICES:**

All formal notices affecting the provisions of this Agreement may be delivered in person or be sent by facsimile, registered mail, or by a recognized overnight courier such as FedEx, to the individual designated below, until such time as either party furnishes the other party written instructions to contact another individual.

For the SOE: Supervisor of Elections 240 S. Military Trail West Palm Beach, Florida 33415 Attention: Susan Bucher	For the Municipality: Town of Loxahatchee Groves 14579 Southern Boulevard, Suite 2 Loxahatchee Groves, FL 33470 Attention: Janet K. Whipple, Town Clerk
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10. **SEVERABILITY:**

If any clause, section, or provision of this Agreement shall be declared to be unconstitutional, invalid or unenforceable for any cause or reason, or is abrogated or negated by a change in law, the same shall be eliminated from this Agreement, and the remaining portion of this Agreement shall be in full force and effect and be valid as if such invalid portions thereof had not been incorporated herein.

11. By signing this contract, you and your municipality approve the contract as a form of legal sufficiency  
Resolution 2013-17 Attachement SOE Agreement

and certify that this contract has met all of the legal requirements of your Municipal Charter and all other related laws.

11. **NO MODIFICATION EXCEPT IN WRITING:**

This is the complete and final agreement between the parties. No representations other than those set forth herein shall be binding upon the parties. No modification of this agreement shall be effective unless submitted in writing and signed by both parties, or their duly authorized representatives.

**IN WITNESS WHEREOF**, the parties hereto have entered into this Agreement effective January 1, 2014.

**As to the SOE:**

SUPERVISOR OF ELECTIONS  
PALM BEACH COUNTY

\_\_\_\_\_  
Susan Bucher

Date: \_\_\_\_\_

**As to the MUNICIPALITY:**

TOWN OF LOXAHATCHEE GROVES

\_\_\_\_\_  
David Browning, Mayor

Date: \_\_\_\_\_

WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Janet K. Whipple, MMC  
Town Clerk

(Affix Municipal Seal)



**Item 6 b.**

**Resolution 2013-18**

**Dedication of Right-of-Way Easement**

**TOWN OF LOXAHATCHEE GROVES**

**RESOLUTION NO. 2013-18**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, SUPPORTING THE LEGISLATION REQUESTED BY THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT TO PROVIDE FOR THE DEDICATION OF RIGHT-OF-WAY EASEMENTS TO THE PUBLIC; PROVIDING THAT COPIES OF THIS RESOLUTION BE FORWARDED TO THE PALM BEACH COUNTY LEGISLATIVE DELEGATION, THE PRESIDENT OF THE FLORIDA SENATE, AND THE SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Board of Supervisors of the Loxahatchee Groves Water Control District (the District”) has requested legislation to provide for the dedication of right-of-way easements to the public; and,

**WHEREAS**, the subject legislation is intended to facilitate and improve road access and safety, decrease dust and resulting health issues, and lower road maintenance costs for landowners and residents of the Town, and,

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves finds that it is in the best interest of the Town, its residents and landowners, for the proposed legislation to be approved by the Florida Legislature.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THAT:**

**Section 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

**Section 2.** The Town Council hereby supports the legislation requested by Loxahatchee Groves Water Control District to provide for the dedication of right-of-way

easements to the public.

**Section 3.** The Town Clerk is directed to forward certified copies of the executed Resolution to the Palm Beach County Legislative Delegation, the President of the Florida Senate and the Speaker of the Florida House of Representatives.

**Section 4.** This Resolution shall be effective immediately upon adoption.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA THIS \_\_\_\_\_ DAY OF DECEMBER 2013.**

ATTEST:

TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

\_\_\_\_\_  
Janet K. Whipple, Town Clerk

\_\_\_\_\_  
Mayor David Browning

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Vice Mayor Ron Jarriel

\_\_\_\_\_  
Michael D. Cirullo, Jr., Town Attorney

\_\_\_\_\_  
Council Member Tom Goltzené

\_\_\_\_\_  
Council Member Ryan Liang

\_\_\_\_\_  
Council Member Jim Rockett

A bill to be entitled

An act relating to the Loxahatchee Groves Water Control District, Palm Beach County; amending Chapter 99-425, Laws of Florida, as amended; providing for the dedication of road right-of-way easements to the public; providing requirements for such dedication; providing for prima facie evidence of such public road right-of-way easements; exempting certain property of an electric utility; assigning continuing traffic control jurisdiction on all public roads within the district to the Town of Loxahatchee Groves; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 9 is added to section 2 of chapter 99-425, Laws of Florida, as amended, to read:

Section 9. Roads presumed to be dedicated.

a. When a road within the district has been constructed by the district, and when such road has been maintained or repaired continuously and uninterruptedly for 7 years by the district, an easement for such road over, under, across, upon, through, and within the underlying real property for road right-of-way purposes, shall be deemed to be dedicated to the public to the extent of the width that has been actually maintained or repaired for the prescribed period, whether or not the road has been formally established as a public road. The dedication shall vest such easement in and to the road in the public, whether or not there is a record of conveyance, dedication, or appropriation to the public use.

b. The filing of a map in the office of the clerk of the circuit court of the county where the road is located showing the lands and reciting on it that the road has been dedicated in accordance with subsection a., or by any other means of acquisition, duly certified by the chair and secretary of the district, shall be prima facie evidence of the public's easement rights.

c. This section does not apply to any facility of an electric utility which is located on property otherwise subject to this section.

d. The Town of Loxahatchee Groves shall continue to have traffic control jurisdiction over all public roads located within the district.

Section 2. This act shall take effect upon becoming a law.



**Item 6 c.**

**Resolution 2013-19**

**Dedication of Canal Maintenance Easement**

**TOWN OF LOXAHATCHEE GROVES**

**RESOLUTION NO. 2013-19**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, SUPPORTING THE LEGISLATION REQUESTED BY THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT TO PROVIDE FOR THE DEDICATION OF CANAL MAINTENANCE EASEMENTS TO THE DISTRICT AND THE USE OF SUCH FOR RECREATIONAL TRAIL PURPOSES; PROVIDING THAT COPIES OF THIS RESOLUTION BE FORWARDED TO THE PALM BEACH COUNTY LEGISLATIVE DELEGATION, THE PRESIDENT OF THE FLORIDA SENATE, AND THE SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Board of Supervisors of the Loxahatchee Groves Water Control District (the District”) has requested legislation to provide for the dedication of canal maintenance easements to the District; and,

**WHEREAS**, the subject legislation is intended to facilitate and promote the District’s ability to maintain its canals pursuant to its special purposes, and to permit such maintenance easements to be used for recreational trail purposes by the public, and,

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves finds that it is in the best interest of the Town, its residents and landowners, for the proposed legislation to be approved by the Florida Legislature.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THAT:**

**Section 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

**Section 2.** The Town Council hereby supports the legislation requested by

Loxahatchee Groves Water Control District to provide for the dedication of canal maintenance easements to the District, and to permit the use of such for recreational trail purposes by the public.

**Section 3.** The Town Clerk is directed to forward certified copies of the executed Resolution to the Palm Beach County Legislative Delegation, the President of the Florida Senate and the Speaker of the Florida House of Representatives.

**Section 4.** This Resolution shall be effective immediately upon adoption.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA THIS \_\_\_\_\_ DAY OF DECEMBER 2013.**

ATTEST:

TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

\_\_\_\_\_  
Janet K. Whipple, Town Clerk

\_\_\_\_\_  
Mayor David Browning

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Vice Mayor Ron Jarriel

\_\_\_\_\_  
Michael D. Cirullo, Jr., Town Attorney

\_\_\_\_\_  
Council Member Tom Goltzené

\_\_\_\_\_  
Council Member Ryan Liang

\_\_\_\_\_  
Council Member Jim Rockett

An act relating to the Loxahatchee Groves Water Control District, Palm Beach County, Florida; amending Chapter 99-425, Laws of Florida, as amended; providing for the dedication of canal maintenance easements to the district; providing requirements for such dedication; providing for prima facie evidence of such maintenance easements; providing for the use of the maintenance easements for recreational trail purposes by the public through district permits issued to the Town of Loxahatchee Groves; providing that any permit issued by the district to the Town for perpetual use by the public for recreational trail purposes shall satisfy property control requirements for state grant purposes; providing an effective date.

#### Maintenance Easements and Use for Public Trail Purposes.

(1) When land adjacent to canals has been used and maintained for district-related purposes by the district to access its canals continuously and uninterruptedly for 7 years, a maintenance easement for such land over, under, across, upon, through, and within the underlying real property for such maintenance purposes, shall be deemed to be dedicated to the district to the extent of the width that has been actually used, maintained or repaired for the prescribed period, whether or not the land has been formally established as an easement in favor of the district. The dedication shall vest such easement in and to the land to the district, whether or not there is a record of conveyance, dedication, or appropriation to the district.

(2) The filing of a map in the office of the clerk of the circuit court of the county where the maintenance easement is located showing the lands and reciting on it that the land has been dedicated in accordance with subsection (1), or by any other means of acquisition, duly certified by the chair and secretary of the district shall be prima facie evidence of the district's easement rights.

(3) For any maintenance easement established pursuant to this section, the use by the public for recreational trail purposes, including without limitation equestrian trails, shall be authorized. The district shall have the authority to issue permits to the Town of Loxahatchee Groves to construct and maintain such recreational trails within the maintenance easements. Any permit issued by the district for perpetual use by the public for recreational trail purposes shall be deemed to satisfy any and all current or future state grant requirements for property control by the Town.

(4) This section does not apply to any facility of an electric utility which is located on property otherwise subject to this section.



**Item 7 a.**

**Ordinance No. 2013-11 2<sup>nd</sup> Reading**

**Historical Legacy**

**TOWN OF LOXAHATACHEE GROVES**

**ORDINANCE NO. 2013-11**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO HISTORICAL LEGACY USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 75-035, ENTITLED “USES AS OF OCTOBER 1, 2006” TO ADD THE TERM HISTORICAL LEGACY TO THE SECTION TITLE; TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO REQUIRE THAT THE PROPERTY ON WHICH THE USE IS LOCATED SHALL HAVE BEEN OWNED AND SUBJECT TO A HOMESTEAD EXEMPTION IN THE NAME OF THE OPERATOR OR HIS OR HER DIRECT RELATIVE RELATED BY BLOOD OR MARRIAGE ; TO REQUIRE THAT THE USE DOES NOT PRESENT A THREAT TO PUBLIC HEALTH; TO REQUIRE THAT THE USE HAS NO HISTORY OF CODE VIOLATIONS OR THE USE HAS BEEN BROUGHT INTO CODE COMPLIANCE; TO REQUIRE THAT THE OWNER-OPERATOR SUBMIT AN AFFIDAVIT STIPULATING TO COMPLIANCE WITH CERTAIN CONDITIONS; AND TO REQUIRE REVIEW AND INSPECTION BY THE TOWN; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council has directed staff and the Unified Land Development Code (ULDC) Review Committee to prepare corrective amendments to Section 75-035 that will result in a process to permit “historical legacy” uses in the Agricultural Residential (AR) zoning district. In response to the Council directive the Town’s staff has prepared proposed amendments to the Town’s Unified Land Development Code (ULDC) and,

**WHEREAS**, the Town’s ULDC Review Committee considered the proposed ULDC amendments at its October 17, 2013, meeting and recommended that the Town Council approve the amendments to the ULDC proposed by staff subject to revisions which have been incorporated in Attachment A hereto; and,

**WHEREAS**, the Town’s Planning and Zoning Board considered the proposed ULDC amendments at its December 12, 2013, meeting and pursuant to Chapter 163, Part II, Florida Statutes, recommended that the Town Council approve/deny the amendments to the ULDC as worded in Attachment A hereto; and,

**WHEREAS**, the Town Council of Town of Loxahatchee Groves finds that the adoption of this ordinance, to revise Section 75-035, entitled “Uses as of October 1, 2006”, is consistent with the Town’s Comprehensive Plan, and in the best health and welfare interests of the Town, its property owners and residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA:**

**Section 1:** That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

**Section 2:** That the Town Council of the Town of Loxahatchee Groves, hereby amends the Town’s Unified Land Development Code (ULDC) by amending Section 75-035, entitled “Uses as of October 1, 2006” , as fully set forth in **Attachment “A”**, and incorporated herein by reference.

**Section 3: Conflicts.** All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Severability.** If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

**Section 5: Codification.** The Town Clerk shall cause this ordinance to be codified as a part of the ULDC.

**Section 6: Effective Date.** This ordinance shall take effect immediately upon adoption.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 3rd DAY OF DECEMBER, 2013.**

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

**TOWN OF LOXAHATCHEE GROVES,  
FLORIDA**

ATTEST:

\_\_\_\_\_  
Mayor David Browning

\_\_\_\_\_  
TOWN CLERK

\_\_\_\_\_  
Vice Mayor Ron Jarriel

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Council Member Tom Goltzené

\_\_\_\_\_  
Office of the Town Attorney

\_\_\_\_\_  
Council Member Ryan Liang

\_\_\_\_\_  
Council Member Jim Rockett

**ATTACHMENT A – Ordinance 2013-011**

**Historical Legacy Amendments**

**(Ref: Following Page)**

**Amendments to the following ULDC Section:**

1. Section 75-035. *Uses as of October 1, 2006*

**NOTE:** Underlined text is an addition to Section 75-035 and ~~struck through text~~ is a deletion to Section 75-035.

**Section 75-035. - Historical Legacy Uses as of October 1, 2006.**

Certain uses that were in existence and not previously permitted by Palm Beach County as of October 1, 2006 are not contained in the table of permitted uses for the Agricultural Residential (AR) zoning district, referred to as "Historical Legacy Uses", but may be allowed to continue to exist, subject to following:

- (A) The applicant shall have the burden of proof to demonstrate that the use was in existence on the property as of October 1, 2006; and
- (B) The applicant shall apply for a Category B Special Exception pursuant to Section 170-010(B) of this Code; and
- (C) The application for the Special Exception shall be filed within eight months of the effective date of these regulations. The property on which the use is located shall have been continuously: (1) owned in the name of the use operator or his or her direct relative related by blood or marriage since October 1, 2006; and (2) subject to a homestead exemption in the name of the use operator or his or her direct relative related by blood or marriage, since October 1, 2006.
- (D) The use does not present a threat to public health or safety.
- (E) The use has no history of Town Code violations, or the use has been brought into compliance with the Town Code.
- (F) The owner-operator has submitted an affidavit: (1) certifying compliance with Sections (A) –(E) above (2) limiting the continued operation of the use to both the exact physical address and operator or his or her direct relative related by blood or marriage; (3) agreeing not to diversify the existing business; (4) agreeing that no signs visible from the road which advertise or promote the use will be erected on the property; (5) agreeing to maintain an active annual local business tax receipt; and (6) acknowledging that, in the event of the transfer of the property to a new owner other than to a direct relative related by blood or marriage , the right to operate the use shall cease.
- (G) The owner-operator has undergone a review and inspection by the Town to determine compliance with Sections (A) – (F) above.

# Underwood Management Services Group, LLC



840 N.E. Stokes Terrace  
Jensen Beach, Florida 34957  
Telephone: 772.233.1511

William F. Underwood, II  
Managing Partner  
Email: umsg@att.net

**TO:** Town Council

**FROM:** Underwood Management Services Group, L.L.C.

**RE:** Ordinance 2013- 011: Town Initiated Amendment to the Loxahatchee Groves Unified Land Development Code (ULDC) to Addition of Section 75-035 – *Uses as of October 1, 2006 (i.e. Historical Legacy Uses)*.

**DATE:** November 22, 2013.

**CC:** William F. Underwood, Managing Partner

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## **I. BACKGROUND INFORMATION**

Per Section 05-070, the Town Council may amend the Unified Land Development Code (ULDC) for the purposes of public necessity, convenience, general welfare, or good planning and zoning practice. Any amendment to the ULDC requires a super majority vote of four or more Council members.

The issue of “historical legacy” uses has undergone a lengthy Town review process and morphed from the previously proposed addition to the ULDC of Section 80-60. *Residential Agricultural Sales and Services* to the current proposed revision of ULDC Section 75-035. *Uses as of October 1, 2006*.

The following represents a brief chronology of events leading to the current proposed revisions to ULDC Section 75-030:

- A code enforcement complaint was initially filed against several entities alleging the improper retail sales of hay without appropriate approvals. The complaint was investigated by the Town’s Code Enforcement Staff and it was determined that the three entities were operating in the Agricultural Residential (AR) zoning district without the proper authority and approval.
- At the June 5, 2012 Town Council Meeting, the respondents appeared and requested consideration for their current operations. Town Council deliberated on the matter and directed Town Management Staff and the Town Attorney to review the matter and propose possible remedies that would address the issue.
- At the June 20, 2012 meeting, Town Management Staff presented a strategy including the following elements: Limiting the operation to property residents; restricting the operation to resident owners rather than vesting with the land; requiring a business tax receipt; and other requirements consistent with the intent of the ULDC.

- At the November 8, 2012 meeting, the Planning and Zoning Board (PZB) heard a presentation of proposed ULDC Section 80-60. *Residential Agricultural Sales and Services*. PZB recommended approval of Section 80-60 by a 3-0 vote subject to clarifying that uses be limited to the following: straw, flakes, shaving, pellet shavings, hay, feed and grain. This change was incorporated within the draft by Staff.
- At the November 20, 2012 Town Council meeting, Resolution 2012-19 was passed by the Council creating the Unified Land Development Code Review Committee (ULDC Review Committee) for the purpose of advising the Council on code related matters.
- At the Town Council meeting of December 4, 2012, proposed Ordinance 2012-012 (Hay Sales Ordinance) was heard by the Town Council which voted to continue the item to the January 15, 2013 meeting by a 4-1 vote to allow more time for review.
- At the Town Council meeting of January 15, 2013, Council voted to approve Ordinance 2012-012 on first reading by a 3-2 vote subject to the following changes to the Staff proposal:
  - Strike the requirement for special exception approval for semi-truck deliveries.
  - Strike the provision regarding limiting the number of employees to two persons.
  - Change hours of operation to: 8:00 a.m. – 8:00 p.m. five days a week, and on Saturday; Sunday hours – 12:00 p.m. to 5:00 p.m.

Public discussion centered around the need to adopt an ordinance that encompassed all “mom and pop” organizations that existed prior to incorporation rather than focusing on hay sales.

- At the February 5, 2013 meeting, Ordinance 2012-012 was continued to the March 5, 2013 meeting, as language revisions approved by the Council at its January 5, 2013 meeting was not included in the current draft.

The Council also directed staff to have Ordinance 2012-012 reviewed by the ULDC Review Committee at its February 21, 2013 meeting. The Town Manager noted that if the title of the ordinance was changed as a result of ULDC Committee review, it would have to come back to Council for a new first reading.

- Ordinance 2012-012 was reviewed at the February 21, 2013 ULDC Review Committee. There was considerable discussion as to whether or not the ordinance should be limited to hay sales or expanded to include all “historical legacy” businesses. A motion was made and passed, by a 5-0 vote, to incorporate the pre-existing business intent of proposed Ordinance 2012-012, expanded to include the concept of businesses classified as “historical legacies”, within Section 75-035. *Uses as of October 1, 2006* of the ULDC.
- At the March 5, 2013 Town Council meeting, Ordinance 2012-012 was considered on second reading. A motion to table Ordinance 2012-012 and suspend code enforcement on any use that would fall under the concept of historical legacy, as presented to the ULDC Committee was made and passed by a 5-0 vote.

A second motion was made and passed, by a 5-0 vote, directing Staff to process an ordinance addressing the “historical legacy” issue.

- ULDC Article 75, including Section 75-035. *Uses as of October 1, 2006*, was included on the ULDC Committee agendas of March 21, 2013, April 18, 2013, May 16, 2013, September 19, 2013 and October 3, 2013. The item was continued at each meeting due to the length of discussions on prior agenda items.
- ULDC Article 75. *Nonconforming Uses, Structures and Plots*, including Section 75-035. *Uses as of October 1, 2006*, was discussed by the ULDC Review Committee at its meeting on October 17, 2013. The Committee recommended approval, by a 5-0 vote, of Staff proposed Article 75 revisions, subject to several conditions. Recommended conditions of approval for Section 75-035 include the following:
  - The “historical legacy” use will not be allowed to continue in the event of a sale of the business or the property on which it is located.
  - A “historical legacy” business may continue if previous code violations have been brought into compliance with the ULDC.
  - A “historical legacy” business may not be diversified (i.e. add a new business operation).
  - The owner-operator must undergo an inspection and review by the Town to determine compliance with Sections 75-035 (A) – (F).

Each of the above recommendations have been incorporated within the current Staff recommendation.

## **II. GENERAL INFORMATION**

**A. APPLICANT:** Town of Loxahatchee Groves.

**B. PURPOSE:** Incorporate revisions to the Unified Land Development Code (ULDC) revising Section 75-035. *Uses as of October 1, 2006* to:

1. Expand the title to read: Section 75-035. *Historical Legacy Uses as of October 1, 2006*.
2. Require an applicant to apply for a Category B Special Exception.
3. Require that the applicant comply with a list of stated conditions.
4. Require that the applicant undergo a review and inspection by the Town to determine compliance with the list of stated conditions.

## **III. REQUESTED ULDC AMENDMENTS**

The proposed amendment to ULDC Section 75-035 is included as Attachment A to proposed Ordinance 2013-11.

#### **IV. STAFF ANALYSIS**

The proposed text amendment is reviewed in accordance with the following criteria, as listed in Section 160-020 of the ULDC.

##### **A. REASON AND/OR NEED FOR THE PROPOSED TEXT CHANGE:**

The basic purpose of the proposed amendment is to implement Town Council direction to process an ordinance addressing the “historical legacy” land use issue.

##### **B. REASON THE PRESENT TEXT IS INVALID OR INAPPROPRIATE:**

The current text of the ULDC is not necessarily invalid or inappropriate; however, current Code language does not permit a use existing as of October 1, 2006 to continue to exist if the applicant had not filed an application for Special Exception approval within eight months of the effective date of the ULDC (i.e. November 2010). In effect, existing ULDC language prohibits any use in the AR District that was in existence on October 1, 2006, but not listed as a “permitted use” in Section 20-015 of the ULDC, from continuing to exist. The proposed ULDC text amendment will provide an opportunity for qualified longstanding non-conforming land uses (i.e. Historical Legacy uses) to gain permitted use status, provided that specified conditions are met and verified by the Town.

##### **C. HOW DOES THE PROPOSED TEXT AMENDMENT FURTHER THE PURPOSES OF THE COMPREHENSIVE PLAN OR OTHER TOWN CODES, REGULATIONS OR PLANS DESIGNED TO IMPLEMENT THE COMPREHENSIVE PLAN:**

The proposed ULDC revisions, which allow and regulate uses in the AR zoning district that were in existence at the time of incorporation of the Town, are consistent with the following general Future Land Use Element Comprehensive Plan directives:

1. Policy 1.1.4(h): Create codes allowing diverse low impact home-based businesses.
2. Policy 1.1.6: The Town shall encourage the use of innovative land development regulations that enhance the rural atmosphere, reduce energy usage, and reduce greenhouse gas emissions.
3. Policy 1.1.8.5: Maintain specific regulations to restrict the types of non-residential and nonagricultural uses allowed and promote the rural character and design..
4. Policy 1.1.8.6: Allow home occupation uses that will not degrade the rural character of the area.
5. Policy 1.1.8.7: Include provisions for legal non-conforming agricultural uses consistent with this Plan, while not violating the Right-to-Farm Act.
6. Policy 1.11.2: The Town shall adopt and maintain land development regulations which protect the rights of property owners to continue non-conforming uses, but which, at a minimum, provide for the termination of such rights upon the abandonment of a non-conforming use for an extended period of time.

7. Policy 1.12.4: The Town will continue to allow home based businesses to the extent that impacts are compatible with an agricultural/residential community.

**D. IS THERE AN ERROR OR AMBIGUITY TO BE CORECTED:** There are no identified errors or ambiguities identified in the Town's current ULDC regarding the issue. Rather, the proposed amendments provide an opportunity to allow longstanding non-conforming uses the opportunity to legally continue consistent with the direction of the Town's Comprehensive Plan.

**V. STAFF FINDINGS:** Planning staff finds the proposed ULDC revisions to be consistent with the intent and direction of the Loxahatchee Groves Comprehensive Plan and the review criteria for a text amendment listed in Section 160-020 of the ULDC.

**VI. STAFF RECOMMENDATION:** Staff recommends approval of the proposed ULDC revisions, as presented in proposed Ordinance 2013-11.

**VII. ULDC COMMITTEE ACTION:** The Committee recommended approval, by a 5-0 vote, of Staff proposed Section 75-035 include the following:

- The "historical legacy" use will not be allowed to continue in the event of a sale of the business or the property on which it is located.
- A "historical legacy" business may continue if previous code violations have been brought into compliance with the ULDC.
- A "historical legacy" business may not be diversified (i.e. add a new business operation).
- The owner-operator must undergo an inspection and review by the Town to determine compliance with Sections 75-035 (A) – (F).

Each of the above recommendations have been incorporated within the Staff recommendation presented in Attachment A of Ordinance 2013-11.

**VIII. PLANNING AND ZONING BOARD ACTION:** The Planning and Zoning Board (PZB) is scheduled to review proposed Ordinance 2013-11 at its December 12, 2013 meeting. PZB comments will be presented to the Council at its following meeting.

**IX. TOWN COUNCIL ACTION:** The item appeared on the Town Council agenda of March 5, 2013 in its previous form (i.e. Ordinance 2012-012 - "Hay Sales Ordinance"). At the meeting, a motion was made and passed, by a 5-0 vote, directing Staff to process an ordinance addressing the more general issue of "historical legacy", as opposed to focusing solely upon hay sales.

Staff's response to Council direction, including a detailed review by the ULDC Review Committee, is incorporated within the proposed ULDC revisions presented in Attachment A of Ordinance 2013-11.



**Item 7 b.**

**Ordinance No. 2013-06 2<sup>nd</sup> Reading**

**Amending Town Code Special Exception**

**TOWN OF LOXAHATACHEE GROVES**

**ORDINANCE NO. 2013-06**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO SPECIAL EXCEPTION USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 10-015, ENTITLED “DEFINITIONS” TO DEFINE “TEMPORARY EVENT;”; TO AMEND SECTION 20-015, ENTITLED “PERMITTED USES” (AGRICULTURAL RESIDENTIAL DISTRICT), TO REMOVE THE SPECIAL EXCEPTION REQUIREMENT FOR COMMERCIAL EQUESTRIAN OPERATIONS, ADD RODEO EVENTS AS A PRINCIPAL USE WITH SPECIAL EXCEPTION AND TEMPORARY EVENTS AS AN ACCESSORY USE WITH SPECIAL EXCEPTION APPROVAL, AND TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO AMEND SECTION 25-015, ENTITLED “PERMITTED USES” (COMMERCIAL LOW AND COMMERCIAL LOW OFFICE DISTRICTS), TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN PRINCIPAL USES; TO AMEND SECTION 30-015, ENTITLED “PERMITTED USES” (INSTITUTIONAL AND PUBLIC FACILITIES DISTRICT) TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO AMEND SECTION 115-01, ENTITLED “TABLE OF PUBLIC NOTICE REQUIREMENTS” TO PROVIDE NOTICE REQUIREMENTS FOR THE DIFFERENT CATEGORIES OF SPECIAL EXCEPTIONS; TO AMEND ARTICLE 170, ENTITLED “SPECIAL EXCEPTION USES” TO DEFINE THE CATEGORIES FOR SPECIAL EXCEPTION REVIEW, AND TO PROVIDE FOR THE APPLICATION REQUIREMENTS, REVIEW PROCEDURES AND RELATED MATTERS FOR THE CATEGORIES OF SPECIAL EXCEPTION REVIEW; TO AMEND ARTICLE 120, ENTITLED “QUASI-JUDICIAL HEARINGS,” SECTION 120-015, ENTITLED “QUASI-JUDICIAL MATTERS” TO SPECIFY THE SPECIAL EXCEPTIONS THAT ARE CONSIDERED QUASI-JUDICIAL MATTERS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** due to its potentially time consuming and costly approval process, the Town Council has directed staff and the Unified Land Development Code (ULDC) Review Committee to prepare amendments to Article 170, entitled “Special Exception Uses” of the ULDC that will result in a more “user friendly” process for Town residents; and

**WHEREAS,** in response to the Town Council directive, the Town’s staff has prepared proposed amendments to the Town’s Unified Land Development Code (ULDC) and,

**WHEREAS**, the Town’s ULDC Review Committee considered the proposed ULDC amendments at its June 20, 2013, meeting and recommended that the Town Council approve the amendments to the ULDC proposed by staff subject to revisions which have been incorporated in Attachment A hereto; and,

**WHEREAS**, the Town’s Planning and Zoning Board considered the proposed ULDC amendments at its September 12, 2013, meeting and pursuant to Chapter 163, Part II, Florida Statutes, recommended that the Town Council approve the amendments to the ULDC as worded in Attachment A hereto; and,

**WHEREAS**, the Town Council of Town of Loxahatchee Groves finds that the adoption of this Ordinance, to revise ULDC provisions related to Special Exception Uses is consistent with the Town’s Comprehensive Plan, and in the best health and welfare interests of the Town, its property owners and residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA:**

**Section 1:** That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

**Section 2:** That the Town Council of the Town of Loxahatchee Groves, hereby amends the Town’s Unified Land Development Code (ULDC), by amending Section 10-015, entitled “Definitions” to define “Temporary Event,”; amending Section 20-015, entitled “Permitted Uses” (Agricultural residential District), to eliminate the special exception requirement for commercial equestrian operations, add Rodeo Events as a Principal Use with special exception approval and Temporary Events as an Accessory Use with special exception approval, and to specify the category of special exception necessary for certain uses in the zoning category;

amending Section 25-015, entitled “Permitted Uses” (Commercial Low And Commercial Low Office Districts), to specify the category of special exception necessary for certain Principal Uses; amending Section 30-015, entitled “Permitted Uses” (Institutional And Public Facilities District) to specify the category of special exception necessary for certain uses in the zoning category; amending Section 115-01, entitled “Table Of Public Notice Requirements” to provide notice requirements for the different categories of Special Exceptions; amending Article 170, entitled “Special Exception Uses” to define the categories for special exception review, and to provide for the application requirements, review procedures and related matters for the categories of special exception review, and amending Section 120-015, entitled “Quasi-Judicial Matters” to specify the special exceptions that are considered Quasi-Judicial Matters, as fully set forth in **Attachment “A”**, and incorporated herein by reference.

**Section 3: Conflicts.** All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4: Severability.** If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

**Section 5: Codification.** The Town Clerk shall cause this ordinance to be codified as a part of the ULDC.

**Section 6: Effective Date.** This ordinance shall take effect immediately upon adoption.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 5th DAY OF NOVEMBER, 2013.**

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS**

**3rd DAY OF DECEMBER, 2013.**

**TOWN OF LOXAHATCHEE GROVES,  
FLORIDA**

ATTEST:

\_\_\_\_\_  
Mayor David Browning

\_\_\_\_\_  
TOWN CLERK

\_\_\_\_\_  
Vice Mayor Ron Jarriel

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Council Member Tom Goltzené

\_\_\_\_\_  
Office of the Town Attorney

\_\_\_\_\_  
Council Member Ryan Liang

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Council Member Jim Rockett

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**ATTACHMENT A – Ordinance 2013-06**

**Special Exception Amendments**

**(Ref: Following Page)**

**Amendments to the following ULDC Sections:**

1. Article 170. *Special Exception Uses*
2. Section 10-015. *Definitions*
3. Section 20-015. *Permitted uses* (Agricultural Residential District).
4. Section 25-015. *Permitted uses* (Commercial Low and Commercial Low Office District).
5. Section 30-015. *Permitted uses* (Institutional and Public Facilities District).
6. Section 115-01. *Table of public notice requirements.*
7. Section 120-015. *Quasi-judicial matters.*

## **Article 170. SPECIAL EXCEPTION USES**

### **Section 170-005. – Purposes.**

Special exception uses may be compatible with the other land uses permitted in a zoning district but, because of their unique characteristics and potential impacts on the surrounding neighborhood and the Town as a whole, require individual review of their location, design, configuration, and/or operation in order to ensure that the use is appropriate at a particular location.

### **Section 170-010. - Applicability.**

This Article specifies the application requirements, processing and disposition of applications for special exception uses as set forth in the schedule of district regulations, and categorized as follows:

- (A) Category A – Complete Special Exception Review per Sections 170-015, 170-020, and 170-025 of this code.
- (B) Category B – Modified Special Exception Review per Sections 170-015, 170-020, and 170-025 of this code.
- (C) Category C – Temporary Event Administrative Review. An Outdoor Event may qualify for a Category C special exception approval as a Temporary Event provided that applicants shall certify, by written affidavit on a form provided by the Town, that none of the following activities or facilities will occur on-site for a period exceeding twenty-four (24) consecutive hours:
  - (1) Signage advertising the event.
  - (2) Temporary buildings, tents or similar structures erected for the event.
  - (3) Electrical, plumbing or similar utility connections to be used during the event.
  - (4) Portable sanitary facilities imported for use during the event.
  - (5) Parking for event participants.

A Category C temporary event holder shall further certify that trash and garbage shall be policed and removed daily.

An outdoor event that cannot certify to the above shall be processed as a Category B special exception.

- (D) Private temporary events held for family and friends of the property owner, on the property owner's property, that occur for a period not to exceed twenty-four (24) hours shall not be required to obtain special exception approval under this article.

**Section 170-015. - Supplemental application requirements.**

In addition to the general application requirements, the applicant shall provide the following materials:

- (A) The existing and proposed use of the property
- (B) For Category A special exceptions, The the existing use, zoning and land use designations of lands within fifteen hundred feet (1,500) of the subject property. For Category B special exceptions, the existing use, zoning and land use designations of lands abutting the subject property.
- (C) A For Category A special exceptions, a site plan meeting the requirements of Article 155, "Site Plans." For Category B special exceptions, a zoning confirmation letter from the Town Manager stating that all applicable provisions of the code are satisfied. The Category B zoning confirmation letter shall include a property/building layout with dimensions provided by the applicant. For Category C special exceptions, a zoning confirmation letter from the Town Manager stating that the proposed event is granted a Category C special exception. In order to be granted a Category C special exception an affidavit shall be provided by the applicant certifying that the conditions of Section 170-010(C) shall be complied with.
- (D) Any other information as may be required for a determination of the nature of the proposed use and its consistency with the criteria for the approval of a special exception use., including the category of review for such application.

**Section 170-020. - Special exception use procedures.**

- (A) Public notice shall be made in accordance with Article 115, "Public Hearing Notices."
- (B) All Category A special exception uses and their related accessory uses including enlargement or modification of an existing special exception use require the authorization of the Town Council. The paragraphs will automatically re-letter once B is deleted. Category B special exception uses and their related accessory uses including

enlargement or modification of an existing special exception use require the authorization of the Town Manager and notification to the Town Council. Category C special exception uses require the authorization of the Town Manager.

- (C) Category A Special special exception uses are matters that are quasi-judicial in nature as defined by Section 120-020: “Ex parte communications on quasi-judicial proceedings prohibited”. All matters that are defined as quasi-judicial in nature shall utilize the quasi-judicial hearing procedures set forth therein. The petitioner shall bear the burden of providing competent substantial evidence that the special exception use should be granted.

**Section 170-025. - Special exception use review standards; Town Council action.**

- (A) The Town Council shall review ~~the application~~ Category A special exception applications to determine whether the special exception use complies with the following standards. The Town Manager shall review Category B applications to determine whether the special exception use complies with the following standards:

- (1) That the use will not cause a detrimental impact to the value of existing contiguous uses, uses in the general area, and to the zoning district where it is to be located.
- (2) That the use will be compatible with the existing uses on contiguous property, with uses in the general area and zoning district where the use is to be located and compatible with the general character of the area, considering population density, design, scale and orientation of structures to the area, property values and existing similar uses or zoning.
- (3) That adequate landscaping and screening are provided to buffer adjacent uses from potential incompatibilities.
- (4) That adequate parking and loading is provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
- (5) That the use will not have a detrimental environmental impact upon contiguous properties and upon properties located in the general area or an environmental impact inconsistent with the health, safety and welfare of the community.

- (6) That the use will not have a detrimental effect on vehicular, pedestrian or equestrian traffic, or parking conditions, and will not result in the generation or creation of traffic inconsistent with the health, safety and welfare of the community.
  - (7) That the use will not utilize turning movements in relation to its access to public roads or intersections, or its location in relation to other structures or proposed structures on or near the site that would be hazardous or a nuisance.
  - (8) That the use will not have a detrimental effect on the future development of contiguous properties or the general area, according to the Comprehensive Plan.
  - (9) That the use will not result in the creation of incompatible noise, lights, vibrations, fumes, odors, dust or physical activities, taking into account existing uses, uses located on contiguous properties, uses in the general area and the zoning in the vicinity due to its nature, duration, direction or character.
  - (10) That the use will not overburden existing public services and facilities.
- (B) The Town Council may deny ~~the~~ a Category A special exception application, approve it, or approve it with conditions. In issuing its decision to grant a Category A special exception, the Town Council may place more restrictive requirements and conditions on applicants than are provided in the code when the conditions are based upon site considerations and its use, and the potentially resulting impacts upon the surrounding area or zoning district where the subject property is located.
- (C) The Town Manager may deny a Category B application, approve it, or approve it with conditions. In addition, the Town Manager, based upon his initial determination of potential non-compliance with the standards listed in Section 170-025(A,) may determine that a potential Category B Special Exception is most appropriately processed as a Category A Special Exception, in which case it will be processed as a Category A Special Exception.

- (D) The Town Manager may deny a Category C application, approve it, or approve it with conditions, based upon a determination of compliance with Section 170-010(C) (1) - (5). The Town Manager, based upon his determination of non-compliance with Section 170-010(C) (1) - (5) may determine that a potential Category C Special Exception is most appropriately processed as a Category B Special Exception, in which case it will be processed as a Category B Special Exception.
- (E) Denials of Category B and C Special Exceptions may be appealed to the Town Council. An applicant shall file a written request for appeal within thirty (30) days of receipt of the written denial by the Town Manager.

**Section 170-030. - Modification of special exceptions.**

If the applicant wishes to amend a special exception use proposal, the proposed amendment shall be processed and reviewed in accordance with the procedures set forth in this article for new special exception uses.

**Section 170-035. - Expiration of special exceptions.**

- (A) The Town Council, in the case of a Category A special exception, and the Town Manager, in the case of a Category B or Category C special exception, may prescribe a reasonable time limit within which the action for which the special exception is required shall be begun or completed or both; provided, that in the absence of such time limit, a special exception approval shall expire unless:
- (1) The applicant submits all development permit applications and construction drawings (if applicable) that are necessary to establish the special exception use within 12 months of Town Council approval, or Town Manager approval, as applicable; and
  - (2) The applicant obtains all necessary development permits (including payment of all fees) within 18 months of Town Council approval, or Town Manager approval, as applicable; and
  - (3) The development permits remain valid until the project is complete; and
  - (4) The conditions and limitations of the special exception are satisfied.
- (B) It shall be the responsibility of the property owner to ensure that a

special exception approval does not expire.

- (C) The Town Council, in the case of a Category A special exception, and the Town Manager, in the case of a Category B special exception, may grant an extension if the applicant submits the extension request within 13 months of the date of Town Council or Town Manager approval and the applicant can demonstrate good cause for the delay. Good cause may include, but shall not be limited to, delay caused by governmental action or inaction or other factors beyond the control of the applicant.

**Section 170-040. - Effect of approval or denial.**

- (A) The use for which a special exception has been granted by the Town Council or Town Manager shall not be commenced by the owner, his or her agent or lessee until such time as the decision is deemed to be final (i.e., all appeal times have expired) and all of the improvements and/or documentation stipulated in the grant of special exception necessary for the orderly use of the property have been accomplished.
- (B) Approval of a special exception use shall run with the use once established (i.e., not expired or revoked) unless otherwise stipulated as a condition of approval.
- (C) Upon denial of an application for a special exception use, there shall be a ~~two~~ one year waiting period before any applicant may submit an application for the same or substantially similar application and for the same property as that which was initially denied.
- (D) Whenever the Town Council has taken action to approve a special exception use, the commission shall not consider any application to modify the conditions of approval for a period of 12 months from the date of such action, unless the commission waives the time period in order to prevent injustice.

**Section 10-015. *Definitions.***

- (A) Any term not defined in this section shall have the meaning given by the most recent edition of Webster's Unabridged Dictionary.

Temporary event. An Outdoor Event not to exceed a period of three (3) consecutive days, such as a fund raising, sporting, holiday, religious, fraternal or civic event where none of the following activities or facilities will occur or exist on-site for a period exceeding twenty-four (24) consecutive hours: (1) Signage; (2) buildings, tents or similar structures; (3) electrical, plumbing or similar utility connections; and/or (3) portable sanitary facilities.

**Section 20-015. Permitted uses.**

Plots located in the Agricultural Residential (AR) zoning districts may be used for the following specified uses.

<b>Principal Uses</b>	<b>Agricultural Residential (AR)</b>
Single Family Dwelling	Permitted
Mobile Home	Permitted w/Special Exception <u>Category B</u>
Public Schools	Permitted
Congregate Living Facility, Type I	Permitted
Non-Profit Community Recreational Facilities	Permitted w/Special Exception <u>Category A</u>
Essential Services	Permitted
Commercial Equestrian Operations	Permitted w/Special Exception
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception <u>Category A</u>
Aviculture	Permitted subject to Article 80
Commercial Kennels	Not Permitted
Chipping and Mulching	Permitted subject to Article 80
Feed Lots	Not Permitted
Commercial Animal Manure Management	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80
Rescued Animal Care	Permitted w/Special Exception <u>Category A</u>
Outdoor Events	Permitted w/Special Exception subject to Article 80 and to a Special Exception <u>Category A</u>
Agriculture	Permitted
Bona Fide Agriculture	Permitted
Wireless Communication Facilities	Permitted w/Special Exception <u>Category A</u>
Rodeo Events	Permitted w/Special Exception <u>Category A</u>

<b>Accessory Uses</b>	<b>Agricultural Residential (AR)</b>
Accessory Dwelling	Permitted
Groom's Quarter	Permitted
Caretaker's Quarter	Permitted
Home Offices	Permitted subject to Article 80
Residential Enterprise	Permitted subject to Article 80
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception <u>Category B</u>
U-Pick Farms	Permitted w/Special Exception <u>Category B</u>
Private Kennels	Permitted
Private Stables	Permitted
Yard Sales	Permitted subject to Article 80
Veterinarian Services	Permitted
Dog Boarding	Permitted
Temporary Events	Permitted w/Special Exception <u>Category C</u>

**Section 25-015. Permitted uses.**

Plots located in the Commercial Low and Commercial Low Office zoning districts may be used for one or more the following uses.

<b>Principal Uses</b>	<b>Commercial Low (CL)</b>	<b>Commercial Low Office (CLO)</b>
Adult Entertainment	Permitted subject to Article 20	Not Permitted
Arcade, Video	Permitted	Not Permitted
Automobile Repair Garage	Permitted	Not Permitted
Bank or Financial Institution	Permitted	Permitted
Bar, Lounge, Tavern or Pub	Permitted	Not Permitted
Barber Shop, Beauty or Nail Salon	Permitted	Not Permitted
Pool Hall	Permitted	Not Permitted
Car Wash, Self-Service or Automated	Permitted	Not Permitted
Catering or Food Service Delivery	Permitted	Not Permitted
Child Care Center	Permitted	Not Permitted
Commercial Animal Manure Management	Not Permitted	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80	Not Permitted
Convenience Store	Permitted	Not Permitted
Dance/Night Club	Permitted	Not Permitted
Day Labor Hiring Center	Permitted w/Special Exception <u>Category A</u>	Not Permitted
Delicatessen	Permitted	Not Permitted
Theater or Auditorium	Permitted	Not Permitted
Dry Cleaning or Laundry Service	Permitted	Not Permitted
Employment Agency	Not Permitted	Not Permitted
Essential Services and Utilities	Permitted	Permitted
Exhibition of Wildlife Pets	Permitted subject to Article 80	Not Permitted
Gasoline Station	Permitted	Not Permitted
Shooting Range, Indoor	Permitted subject to Article 80	Not Permitted
Hotel	Permitted	Not Permitted
Holiday Wayside Stand	Permitted subject to Article 80	Permitted subject to Article 80
Laboratory (e.g., medical, dental, research)	Permitted	Permitted
Offices (e.g. business, professional, medical)	Permitted	Permitted
Package Liquor, Beer or Wine Store	Permitted	Not Permitted
Outdoor Events	Permitted subject to Article 80 and to a Special Exception <u>Category B</u>	Permitted subject to Article 80 and to a Special Exception <u>Category B</u>
Retail Plant or Produce Sales	Permitted	Not Permitted
Restaurant, Fast Food	Permitted	Not Permitted
Restaurant, Full Service	Permitted	Permitted
Restaurant, Take Out	Permitted	Permitted
Retail Services	Permitted	Not Permitted
Retail Store	Permitted	Not Permitted
Commercial Recreation (e.g. batting cages, rink)	Permitted	Not Permitted

<b>Principal Uses (continued)</b>	<b>Commercial Low (CL)</b>	<b>Commercial Low Office (CLO)</b>
Veterinary Clinic or Hospital	Permitted	Not Permitted
Warehouse, Self Storage	Permitted	Not Permitted
Wireless Communication Facilities	Permitted	Permitted
Adult Day Care	Permitted	Permitted
Schools, Public or Private	Permitted	Not Permitted
Gym or Fitness Center	Permitted	Permitted

**Section 30-015. Permitted uses.**

Plots located in the Institutional and Public Facilities zoning district may be used for one or more the following uses.

<b>Principal Uses</b>	<b>Institutional and Public Facilities</b>
Cemetery	Not Permitted
Congregate Living Facility	Permitted
Churches, Place of Worship	Permitted
Day Care, Preschool	Permitted
Essential Services	Permitted
Government Facilities and Services	Permitted
Holiday Wayside Stand	Permitted Subject to Article 80
Outdoor Events	<del>Conditional</del> Permitted subject to Article 80 and to a Special Exception Category B
Private Service Club or Lodge	Permitted w/Special Exception Category A
Public Parks and Outdoor Events	Permitted
School, Public and Private	Permitted
Wireless Communication Facilities	Permitted w/Special Exception Category A

<b>Accessory Uses</b>	<b>Institutional and Public Facilities</b>
Cemetery	Not Permitted
Day Labor Hiring Center	Permitted w/Special Exception Category B
Child Care, Preschool, Adult Day Care	Permitted
Swimming Pool	Permitted

**Section 115-010: Table of public notice requirements**

<b>Application Type</b>	<b>Required Public Hearings</b>	<b>Timing of Notice (number of days prior to public hearing that notice must be given)</b>	<b>Newspaper Notice Format</b>	<b>Mail Notice Radius</b>	<b>Sign Posting Required</b>	<b>Other Notice Required</b>
Administrative Appeal	Town Council	10 days	Standard Ad	Applicant Only	No	Posting at Town Hall
Variance	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Special Exception A	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Special Exception B	<u>Not Required</u>	<u>Not Required</u>	<u>Not Required</u>	<u>Abutting Properties</u>	<u>Not Required</u>	<u>Posting at Town Hall</u>
Special Exception C	<u>Not Required</u>	<u>Not Required</u>	<u>Not Required</u>	<u>Abutting Properties</u>	<u>Not Required</u>	<u>Not Required</u>
Site Plan	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Plat	Town Council	10 days	Standard Ad	Within 1,000 feet	No	Posting at Town Hall
Rezoning initiated by the property owner	Local Planning Agency	10 days	Not Required	Not Required	Yes	Posting at Town Hall
	Town Council (first reading)	10 days	Not Required	Not Required	Yes	Posting at Town Hall
	Town Council (second reading)	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Rezoning initiated by the City for fewer than 10 contiguous acres	Local Planning Agency	10 days	Not Required	Not Required	No	Posting at Town Hall
	Town Council	30 days	Standard Ad	All owners of property proposed for rezoning shall be notified	No	Posting at Town Hall

<b>Application Type</b>	<b>Required Public Hearings</b>	<b>Timing of Notice (number of days prior to public hearing that notice must be given)</b>	<b>Newspaper Notice Format</b>	<b>Mail Notice Radius</b>	<b>Sign Posting Required</b>	<b>Other Notice</b>
Rezoning initiated by the City for more than 10 contiguous acres	Local Planning Agency	10 days	Not Required	Not Required	No	Posting at Town Hall
	Town Council (first reading)	See Sec. 166.041(3)9(c)2			No	Posting at Town Hall
	Town Council (second reading)	See Sec. 166.041(3)9(c)2			No	Posting at Town Hall
Amendments to the Unified Land Development Code (ULDC)	Local Planning Agency	10 days	No	Not Required		Posting at Town Hall
	Town Council (first reading)	See Sec. 166.041(3)9(c)2			No	Posting at Town Hall
	Town Council (second reading)	See Sec. 166.041(3)9(c)2			No	Posting at Town Hall
Land use map amendment (small scale per Section 163.3187(1)(c) F.S.)	Local Planning Agency	See Sec. 166.041(3)9(c)2			Yes	Posting at Town Hall
	Town Council (first reading)	10 days	Yes	Posting at Town Hall	Yes	Posting at Town Hall
	Town Council (second reading)	10 days	Yes	Posting at Town Hall	Yes	Posting at Town Hall
Land use plan amendment (not small scale)	Local Planning Agency	See Sec. 166.041(3)9(c)2			Yes	Posting at Town Hall
	Town Council (first reading)	See Sec. 166.041(3)9(c)2			Yes	Posting at Town Hall
	Town Council (second reading)	See Sec. 166.041(3)9(c)2			Yes	Posting at Town Hall

**Section 120-015: *Quasi-judicial matters***

For purposes of this Article, the following matters, regardless of whether the final determination is made by the Town Council or a board, shall be considered to be quasi-judicial:

- (A) Site Plans
- (B) Plats
- (C) Conditional use approvals
- (D) Category A Special Exceptions, and appeals of denials of Category B and C Special Exceptions by the Town Manager
- (E) Variances
- (F) Administrative appeals
- (G) Site-specific rezonings
- (H) Any other matters the Town Attorney determines are subject to quasi-judicial hearing.

# Underwood Management Services Group, LLC

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William F. Underwood, II  
Managing Partner  
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**TO:** Town Council through Mark Kutney, Town Manager  
**FROM:** Jim Fleischmann, Town Planning Consultant  
**RE:** Proposed ULDC text amendments; Article 170 – Special Exception Uses.  
**DATE:** September 13, 2013.

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## **I. BACKGROUND INFORMATION**

Per Section 05-070, the Town Council may amend the Unified Land Development Code (ULDC) for the purposes of public necessity, convenience, general welfare, or good planning and zoning practice. Any amendment to the ULDC requires a super majority of the Council.

Due to its potentially time consuming and costly approval process, the Town Council has requested staff and the Unified Land Development Code (ULDC) Review Committee to prepare corrective amendments to Article 170. Special Exception Uses of the ULDC that will result in a more “user friendly” process.

## **II. GENERAL INFORMATION**

**A. APPLICANT:** Town of Loxahatchee Groves.

**B. PURPOSE:** Staff, in conjunction with the ULDC Review Committee, has prepared the following land development code amendments in order to address Town Council's direction to create a more “user friendly” special exception process:

1. Creation of special exception use categories based upon the degree of potential impacts upon neighboring properties, including traffic generation, environmental concerns, hours of operation, compatibility, etc.
2. Simplification of the application and approval process, particularly for those special exception uses with minimal potential impacts.
3. Revision of public notice requirements in order to reduce special exception costs.

### **III. REQUESTED ULDC TEXT AMENDMENTS**

Staff proposes revisions to Article 170. *Special Exception Uses* of the ULDC. In order to insure consistency throughout the ULDC, staff proposes to incorporate revisions to the following additional code sections:

1. Section 10-015. *Definitions*.
2. Section 20-015. *Permitted uses* (Agricultural Residential District).
3. Section 25-015. *Permitted uses* (Commercial Low and Commercial Low Office District).
4. Section 30-015. *Permitted uses* (Institutional and Public Facilities District).
5. Section 115-01. *Table of public notice requirements*.

Copies of the proposed ULDC amendments are included in Attachment A.

### **IV. STAFF ANALYSIS**

The proposed text amendments will allow special exception uses with potentially minimal impacts to be processed in an expedited, cost-efficient manner, while insuring that uses with greater potential impacts continue to receive a thorough review by the Town.

#### **A. REASON AND/OR NEED FOR THE PROPOSED TEXT CHANGE:**

The basic purpose of the proposed text amendments is to streamline the special exception application and approval process for uses that do not require a complete review under the Town's current process. However, safeguards remain in place to require a thorough review should site-specific circumstances dictate.

#### **B. REASON THE PRESENT TEXT IS INVALID OR INAPPROPRIATE:**

The current text of the ULDC is not necessarily invalid or inappropriate; however, current code requirements can impose a serious and potentially unnecessary financial burden upon property owners, in terms of application, processing and advertising costs. Proposed amendments will relieve an applicant of this burden, if it is demonstrated that a more relaxed approval process is warranted.

#### **C. HOW DOES THE PROPOSED TEXT AMENDMENT FURTHER THE PURPOSES OF THE COMPREHENSIVE PLAN OR OTHER TOWN CODES, REGULATIONS OR PLANS DESIGNED TO IMPLEMENT THE COMPREHENSIVE PLAN:**

The proposed text amendments are revisions to six sections of the ULDC oriented to streamlining the special exception approval process in circumstances where such action is warranted. The following general Future Land Use Element Comprehensive Plan directives are supportive of the proposed amendments:

1. Policies 1.1.4(b) and (j) direct the Town to adopt land development regulations to assure that development is compatible with adjacent land uses, provide for open spaces, and buffer residential from non-residential uses.

2. Policy1.1.5 requires the Town, when reviewing development permit applications, to consider compatibility with adjacent uses and zoning districts.
3. Policy 1.1.8.5 directs the Town to maintain specific regulations that restrict the types on non-residential and nonagricultural uses allowed and promote the rural character through design.
4. Policy1.1.9 directs the Town to define accessory uses and to minimize the potential adverse impacts upon neighboring properties.

**D. IS THERE AN ERROR OR AMBIGUITY TO BE CORECTED:** There is no error or ambiguity in the ULDC to be corrected by the proposed amendment. Rather, the amendment will streamline the current process for special exception approval for projects with minimal impacts.

**V. ULDC COMMITTEE ACTION:**

The ULDC Review Committee reviewed the proposed text amendments at its meeting on June 20, 2013. The following motions were made and passed unanimously by the Committee:

1. Approve Article 170. *Special Exception Uses*, subject to the following changes:
  - a. Indicate that private and/or personal events are Category B special exceptions or exempt from the process.
  - b. Private events less than 24 hours in duration are exempt from the process.
  - c. In Section 170-015(C) clarify that the “layout” drawing is to be prepared by the applicant and the zoning confirmation letter is to be prepared by staff.
  - d. Section 170-020(B) – last line: “... notification of Town Council” should be changed to “. . . notification to Town Council.”
  - e. Section 170-040(C) change two year waiting period to one year waiting period.
2. Approval of Section 115-010. *Table of Public Notice Requirements*, as presented by staff and subject to any other changes that may need to be made by the Town’s Attorney.
3. Approve the proposed special exception category assignments proposed by staff (Ref: Table 1), with the exception that commercial equestrian operations are not required to obtain special exception approval. Rather, commercial exception operations are to be listed in the AR District as permitted principal uses.
4. The issue of whether or not mobile homes should be special exception, conditional, or permitted principal uses is delayed until the AR District is reviewed by the Committee.

**VI. PLANNING AND ZONING (P & Z) BOARD ACTION:** The P & Z Board, at its September 12, 2013 meeting, recommended approval of the proposed Special Exception ULDC amendments by a 5 – 0 vote, subject to the following three conditions:

1. Rodeo events be added to Section 20-015. *Permitted uses*. as a principal use permitted subject to Special Exception A approval.
2. Section 10-015 *Definitions*. The proposed definition of Temporary Event be expanded to read “ . . . activities or facilities will occur or exist on-site. . . “.
3. Section 170-010(B) be revised to read:

(B) Category B – Modified Special Exception Review. The Town Manager, based upon his initial determination of potential non-compliance with the standards listed in Section 170-025(A), may further determine that a potential Category B Special Exception is most appropriately processed as a Category A Special Exception.

**VII. STAFF FINDINGS:** Planning staff finds the text amendments proposed by staff, as amended by the ULDC Review Committee and Planning and Zoning Board, to be consistent with: (1) The directive of the Town Council; (2) The intent and direction of the Loxahatchee Groves Comprehensive Plan; and (3) appropriate review criteria for a zoning change listed in Section 160-020 of the ULDC.

**VIII. STAFF RECOMMENDATION:** Staff recommends approval of the proposed ULDC text amendments, as presented in Attachment A:

**IX. TOWN COUNCIL ACTION:**

**TABLE 1**

**Recommended Special Exception Categories by Zoning District**

<b>Zoning District</b>	<b>Special Exception Use</b>	<b>Special Exception</b>
<b>Agricultural Residential</b> (ULDC Section 20-015)	Non-Profit Community Recreational Facility (Principal Use)	<u>Category A</u>
	Commercial Equestrian Operations (Principal Use)	<u>Category A</u>
	Retail Nursery (Principal Use)	<u>Category A</u>
	Wireless Communication Facilities (Principal Use)	<u>Category A</u>
	Rescued Animal Care (Principal Use)	<u>Category A</u>
	Retail Nursery (Accessory Use)	<u>Category B</u>
	Mobile Home (Principal Use)	<u>Category B</u>
	U-Pick Farms (Accessory Use)	<u>Category B</u>
	Outdoor Events (Principal Use)	<u>Category B</u>
	<u>Temporary Events (Accessory Use)</u>	<u>Category C</u>
<b>Commercial Low</b> (ULDC Section 25-015)	Day Labor Hiring Center (Permitted Use)	<u>Category A</u>
	Outdoor Events (Subject to Section 80-025)	<u>Category B</u>
<b>Commercial Low Office</b> (ULDC Section 25-015)	Outdoor Events (Subject to Section 80-025)	<u>Category B</u>
<b>Institutional and Public Facilities</b> (ULDC Section 25-015)	Private Service Club or Lodge (Permitted Use)	<u>Category A</u>
	Wireless Communication Facilities (Permitted Use)	<u>Category A</u>
	Day Labor Hiring Center (Accessory Use)	<u>Category B</u>
<b>Parks and Recreation</b>	NA	NA
<b>Conservation</b>	NA	NA

## ATTACHMENT A

### Proposed ULDC Text Amendments (Ref: Following Pages)

(Underlined text is to be added and struck through text is to be deleted):

1. Article 170. *Special Exception Uses*
2. Section 10-015. *Definitions*
3. Section 20-015. *Permitted uses* (Agricultural Residential District).
4. Section 25-015. *Permitted uses* (Commercial Low and Commercial Low Office District).
5. Section 30-015. *Permitted uses* (Institutional and Public Facilities District).
6. Section 115-01. *Table of public notice requirements.*

## Article 170. SPECIAL EXCEPTION USES

### Section 170-005. – Purposes.

Special exception uses may be compatible with the other land uses permitted in a zoning district but, because of their unique characteristics and potential impacts on the surrounding neighborhood and the Town as a whole, require individual review of their location, design, configuration, and/or operation in order to ensure that the use is appropriate at a particular location.

### Section 170-010. - Applicability.

This Article specifies the procedure processing and disposition of applications for special exception uses as set forth in the schedule of district regulations. ,and categorized as follows:

- (A) Category A – Full Review.
- (B) Category B – Modified Special Exception Review. The Town Manager, based upon his initial determination of potential non-compliance with the standards listed in Section 170-025(A), may further determine that a potential Category B Special Exception is most appropriately processed as a Category A Special Exception.
- (C) Category C – Temporary Events Review. An outdoor event may qualify for Category C special exception approval as a temporary event provided that applicants shall certify that none of the following activities or facilities will occur on-site for a period exceeding twenty-four (24) consecutive hours. An outdoor event that cannot certify to the above shall be processed as a Category B special exception:
  - (1) Signage advertising the event.
  - (2) Temporary buildings, tents or similar structures erected for the event.
  - (3) Electrical, plumbing or similar utility connections to be used during the event.
  - (4) Portable sanitary facilities imported for use during the event.
  - (5) Parking for event participants.

A Category C temporary event holder shall further certify that trash and garbage shall be policed and removed daily.
- (D) Private temporary events held for family and friends of the property owner that occur for a period not to exceed twenty-four (24) hours shall not be required to obtain special exception approval under this article.

### **Section 170-015. - Supplemental application requirements.**

In addition to the general application requirements, the applicant shall provide the following materials:

- (A) The existing and proposed use of the property
- (B) For Category A special exceptions, The the existing use, zoning and land use designations of lands within fifteen hundred feet (1,500) of the subject property. For Category B special exceptions, the existing use, zoning and land use designations of lands abutting the subject property.
- (C) A For Category A special exceptions, a site plan meeting the requirements of Article 155, "Site Plans." For Category B special exceptions, a zoning confirmation letter from the Town Manager stating that all applicable provisions of the code are satisfied. The Category B zoning confirmation letter shall include a property/building layout with dimensions provided by the applicant. For Category C special exceptions, a zoning confirmation letter from the Town Manager stating that the proposed event is granted a Category C special exception. In order to be granted a Category C special exception an affidavit shall be provided by the applicant certifying that the conditions of Section 170-010(C) shall be complied with.
- (D) Any other information as may be required for a determination of the nature of the proposed use and its consistency with the criteria for the approval of a special exception use.

### **Section 170-020. - Special exception use procedures.**

- (A) Public notice shall be made in accordance with Article 115, "Public Hearing Notices."
- (B) All Category A special exception uses and their related accessory uses including enlargement or modification of an existing special exception use require the authorization of the Town Council. The paragraphs will automatically re-letter once B is deleted. Category B special exception uses and their related accessory uses including enlargement or modification of an existing special exception use require the authorization of the Town Manager and notification to the Town Council. Category C special exception uses require the authorization of the Town Manager.
- (C) Category A Special special exception uses are matters that are quasi-judicial in nature as defined by Section 120-020: "Ex parte communications on quasi-judicial proceedings prohibited". All matters that are defined as quasi-judicial in nature shall utilize the quasi-judicial hearing procedures set forth therein. The petitioner shall bear the burden of providing competent substantial evidence that the special exception use should be granted.

**Section 170-025. - Special exception use review standards; Town Council action.**

- (A) The Town Council shall review ~~the application~~ Category A special exception applications to determine whether the special exception use complies with the following standards. The Town Manager shall review Category B applications to determine whether the special exception use complies with the following standards:
- (1) That the use will not cause a detrimental impact to the value of existing contiguous uses, uses in the general area, and to the zoning district where it is to be located.
  - (2) That the use will be compatible with the existing uses on contiguous property, with uses in the general area and zoning district where the use is to be located and compatible with the general character of the area, considering population density, design, scale and orientation of structures to the area, property values and existing similar uses or zoning.
  - (3) That adequate landscaping and screening are provided to buffer adjacent uses from potential incompatibilities.
  - (4) That adequate parking and loading is provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
  - (5) That the use will not have a detrimental environmental impact upon contiguous properties and upon properties located in the general area or an environmental impact inconsistent with the health, safety and welfare of the community.
  - (6) That the use will not have a detrimental effect on vehicular, pedestrian or equestrian traffic, or parking conditions, and will not result in the generation or creation of traffic inconsistent with the health, safety and welfare of the community.
  - (7) That the use will not utilize turning movements in relation to its access to public roads or intersections, or its location in relation to other structures or proposed structures on or near the site that would be hazardous or a nuisance.
  - (8) That the use will not have a detrimental effect on the future development of contiguous properties or the general area, according to the Comprehensive Plan.
  - (9) That the use will not result in the creation of incompatible noise, lights, vibrations, fumes, odors, dust or physical activities, taking into account existing uses, uses located on contiguous properties, uses in the general area and the zoning in the vicinity due to its nature, duration, direction or character.
  - (10) That the use will not overburden existing public services and facilities.
- (B) The Town Council may deny ~~the~~ a Category A special exception application, approve it, or approve it with conditions. In issuing its decision to grant a Category A special exception, the Town Council may place more restrictive requirements and conditions on applicants than are provided in the code when the conditions are based upon site considerations and its use, and the potentially resulting impacts upon the surrounding area or zoning district where the subject property is located. The Town Manager may deny a Category B application, approve it, or approve it with conditions.

### **Section 170-030. - Modification of special exceptions.**

If the applicant wishes to amend a special exception use proposal, the proposed amendment shall be processed and reviewed in accordance with the procedures set forth in this article for new special exception uses.

### **Section 170-035. - Expiration of special exceptions.**

- (A) The Town Council, in the case of a Category A special exception, and the Town Manager, in the case of a Category B or Category C special exception, may prescribe a reasonable time limit within which the action for which the special exception is required shall be begun or completed or both; provided, that in the absence of such time limit, a special exception approval shall expire unless:
- (1) The applicant submits all development permit applications and construction drawings (if applicable) that are necessary to establish the special exception use within 12 months of Town Council approval, or Town Manager approval, as applicable; and
  - (2) The applicant obtains all necessary development permits (including payment of all fees) within 18 months of Town Council approval, or Town Manager approval, as applicable; and
  - (3) The development permits remain valid until the project is complete; and
  - (4) The conditions and limitations of the special exception are satisfied.
- (B) It shall be the responsibility of the property owner to ensure that a special exception approval does not expire.
- (C) The Town Council, in the case of a Category A special exception, and the Town Manager, in the case of a Category B special exception, may grant an extension if the applicant submits the extension request within 13 months of the date of Town Council or Town Manager approval and the applicant can demonstrate good cause for the delay. Good cause may include, but shall not be limited to, delay caused by governmental action or inaction or other factors beyond the control of the applicant.

### **Section 170-040. - Effect of approval or denial.**

- (A) The use for which a special exception has been granted by the Town Council or Town Manager shall not be commenced by the owner, his or her agent or lessee until such time as the decision is deemed to be final (i.e., all appeal times have expired) and all of the improvements and/or documentation stipulated in the grant of special exception necessary for the orderly use of the property have been accomplished.
- (B) Approval of a special exception use shall run with the use once established (i.e., not expired or revoked) unless otherwise stipulated as a condition of approval.

- (C) Upon denial of an application for a special exception use, there shall be a ~~two~~ one year waiting period before any applicant may submit an application for the same or substantially similar application and for the same property as that which was initially denied.
- (D) Whenever the Town Council has taken action to approve a special exception use, the commission shall not consider any application to modify the conditions of approval for a period of 12 months from the date of such action, unless the commission waives the time period in order to prevent injustice.

**Section 10-015. Definitions.**

- (A) Any term not defined in this section shall have the meaning given by the most recent edition of Webster's Unabridged Dictionary.

Temporary event. An outdoor event, such as a fund raising, sporting, holiday, religious, fraternal or civic event where none of the following activities or facilities will occur or exist on-site for a period exceeding twenty-four (24) consecutive hours: (1) Signage; (2) buildings, tents or similar structures; (3) electrical, plumbing or similar utility connections; and/or (3) portable sanitary facilities.

**Section 20-015. Permitted uses.**

Plots located in the Agricultural Residential (AR) zoning districts may be used for the following specified uses.

<b>Principal Uses</b>	<b>Agricultural Residential (AR)</b>
Single Family Dwelling	Permitted
Mobile Home	Permitted w/Special Exception <u>Category B</u>
Public Schools	Permitted
Congregate Living Facility, Type I	Permitted
Non-Profit Community Recreational Facilities	Permitted w/Special Exception <u>Category A</u>
Essential Services	Permitted
Commercial Equestrian Operations	Permitted <del>w/Special Exception</del>
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception <u>Category A</u>
Aviculture	Permitted subject to Article 80
Commercial Kennels	Not Permitted
Chipping and Mulching	Permitted subject to Article 80

Feed Lots	Not Permitted
Commercial Animal Manure Management	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80
Rescued Animal Care	Permitted w/Special Exception <u>Category A</u>
Outdoor Events	Permitted w/Special Exception <u>Category B</u>
Agriculture	Permitted
Bona Fide Agriculture	Permitted
Wireless Communication Facilities	Permitted w/Special Exception <u>Category A</u>
<u>Rodeo Events</u>	<u>Permitted w/Special Exception Category A</u>

<b>Accessory Uses</b>	<b>Agricultural Residential (AR)</b>
Accessory Dwelling	Permitted
Groom's Quarter	Permitted
Caretaker's Quarter	Permitted
Home Offices	Permitted subject to Article 80
Residential Enterprise	Permitted subject to Article 80
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception <u>Category B</u>
U-Pick Farms	Permitted w/Special Exception <u>Category B</u>
Private Kennels	Permitted
Private Stables	Permitted
Yard Sales	Permitted subject to Article 80
Veterinarian Services	Permitted
Dog Boarding	Permitted
<u>Temporary Events</u>	Permitted w/Special Exception <u>Category C</u>

**Section 25-015. Permitted uses.**

Plots located in the Commercial Low and Commercial Low Office zoning districts may be used for one or more the following uses.

<b>Principal Uses</b>	<b>Commercial Low (CL)</b>	<b>Commercial Low Office (CLO)</b>
Adult Entertainment	Permitted subject to Article 20	Not Permitted
Arcade, Video	Permitted	Not Permitted
Automobile Repair Garage	Permitted	Not Permitted
Bank or Financial Institution	Permitted	Permitted
Bar, Lounge, Tavern or Pub	Permitted	Not Permitted
Barber Shop, Beauty or Nail Salon	Permitted	Not Permitted
Pool Hall	Permitted	Not Permitted
Car Wash, Self-Service or Automated	Permitted	Not Permitted
Catering or Food Service Delivery	Permitted	Not Permitted
Child Care Center	Permitted	Not Permitted
Commercial Animal Manure Management	Not Permitted	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80	Not Permitted
Convenience Store	Permitted	Not Permitted
Dance/Night Club	Permitted	Not Permitted
Day Labor Hiring Center	Permitted w/Special Exception <u>Category A</u>	Not Permitted
Delicatessen	Permitted	Not Permitted
Theater or Auditorium	Permitted	Not Permitted
Dry Cleaning or Laundry Service	Permitted	Not Permitted
Employment Agency	Not Permitted	Not Permitted
Essential Services and Utilities	Permitted	Permitted
Exhibition of Wildlife Pets	Permitted subject to Article 80	Not Permitted
Gasoline Station	Permitted	Not Permitted

Shooting Range, Indoor	Permitted subject to Article 80	Not Permitted
Hotel	Permitted	Not Permitted
Holiday Wayside Stand	Permitted subject to Article 80	Permitted subject to Article 80
Laboratory (e.g., medical, dental, research)	Permitted	Permitted
Offices (e.g. business, professional, medical)	Permitted	Permitted
Package Liquor, Beer or Wine Store	Permitted	Not Permitted
Outdoor Events	Permitted subject to Article 80 and to a Special Exception <u>Category B</u>	Permitted subject to Article 80 and to a Special Exception <u>Category B</u>
Retail Plant or Produce Sales	Permitted	Not Permitted
Restaurant, Fast Food	Permitted	Not Permitted
Restaurant, Full Service	Permitted	Permitted
Restaurant, Take Out	Permitted	Permitted
Retail Services	Permitted	Not Permitted
Retail Store	Permitted	Not Permitted
Commercial Recreation (e.g. batting cages, rink)	Permitted	Not Permitted
Veterinary Clinic or Hospital	Permitted	Not Permitted
Warehouse, Self Storage	Permitted	Not Permitted
Wireless Communication Facilities	Permitted	Permitted
Adult Day Care	Permitted	Permitted
Schools, Public or Private	Permitted	Not Permitted
Gym or Fitness Center	Permitted	Permitted

**Section 30-015. Permitted uses.**

Plots located in the Institutional and Public Facilities zoning district may be used for one or more the following uses.

<b>Principal Uses</b>	<b>Institutional and Public Facilities</b>
Cemetery	Not Permitted
Congregate Living Facility	Permitted
Churches, Place of Worship	Permitted
Day Care, Preschool	Permitted
Essential Services	Permitted
Government Facilities and Services	Permitted
Holiday Wayside Stand	Permitted Subject to Article 80
Outdoor Events	<del>Conditional-Permitted</del> subject to Article 80 and to a <u>Special Exception Category B</u>
Private Service Club or Lodge	Permitted w/Special Exception <u>Category A</u>
Public Parks and <del>Outdoor Events</del>	Permitted
School, Public and Private	Permitted
Wireless Communication Facilities	Permitted w/Special Exception <u>Category A</u>

<b>Accessory Uses</b>	<b>Institutional and Public Facilities</b>
Cemetery	Not Permitted
Day Labor Hiring Center	Permitted w/Special Exception <u>Category B</u>
Child Care, Preschool, Adult Day Care	Permitted
Swimming Pool	Permitted

**Section 115-010: Table of public notice requirements**

<b>Application Type</b>	<b>Required Public Hearings</b>	<b>Timing of Notice (number of days prior to public hearing that notice must be given)</b>	<b>Newspaper Notice Format</b>	<b>Mail Notice Radius</b>	<b>Sign Posting Required</b>	<b>Other Notice Required</b>
Administrative Appeal	Town Council	10 days	Standard Ad	Applicant Only	No	Posting at Town Hall
Variance	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Special Exception A	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Special Exception B	<u>Not Required</u>	<u>Not Required</u>	<u>Not Required</u>	<u>Abutting Properties</u>	<u>Not Required</u>	<u>Posting at Town Hall</u>
Special Exception C	<u>Not Required</u>	<u>Not Required</u>	<u>Not Required</u>	<u>Abutting Properties</u>	<u>Not Required</u>	<u>Not Required</u>
Site Plan	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Plat	Town Council	10 days	Standard Ad	Within 1,000 feet	No	Posting at Town Hall
Rezoning initiated by the property owner	Local Planning Agency	10 days	Not Required	Not Required	Yes	Posting at Town Hall
	Town Council (first reading)	10 days	Not Required	Not Required	Yes	Posting at Town Hall
	Town Council (second reading)	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Rezoning initiated by the City for fewer than 10 contiguous acres	Local Planning Agency	10 days	Not Required	Not Required	No	Posting at Town Hall
	Town Council	30 days	Standard Ad	All owners of property proposed for rezoning shall be notified	No	Posting at Town Hall

<b>Application Type</b>	<b>Required Public Hearings</b>	<b>Timing of Notice (number of days prior to public hearing that notice must be given)</b>	<b>Newspaper Notice Format</b>	<b>Mail Notice Radius</b>	<b>Sign Posting Required</b>	<b>Other Notice</b>
Rezoning initiated by the City for more than 10 contiguous acres	Local Planning Agency	10 days	Not Required	Not Required	No	Posting at Town Hall
	Town Council (first reading)	See Sec. 166.041(3)9(c)2			No	Posting at Town Hall
	Town Council (second reading)	See Sec. 166.041(3)9(c)2			No	Posting at Town Hall
Amendments to the Unified Land Development Code (ULDC)	Local Planning Agency	10 days	No	Not Required		Posting at Town Hall
	Town Council (first reading)	See Sec. 166.041(3)9(c)2			No	Posting at Town Hall
	Town Council (second reading)	See Sec. 166.041(3)9(c)2			No	Posting at Town Hall
Land use map amendment (small scale per Section 163.3187(1)(c) F.S.)	Local Planning Agency	See Sec. 166.041(3)9(c)2			Yes	Posting at Town Hall
	Town Council (first reading)	10 days	Yes	Posting at Town Hall	Yes	Posting at Town Hall
	Town Council (second reading)	10 days	Yes	Posting at Town Hall	Yes	Posting at Town Hall
Land use plan amendment (not small scale)	Local Planning Agency	See Sec. 166.041(3)9(c)2			Yes	Posting at Town Hall
	Town Council (first reading)	See Sec. 166.041(3)9(c)2			Yes	Posting at Town Hall
	Town Council (second reading)	See Sec. 166.041(3)9(c)2			Yes	Posting at Town Hall

**Section 120-015: *Quasi-judicial matters***

For purposes of this Article, the following matters, regardless of whether the final determination is made by the Town Council or a board, shall be considered to be quasi-judicial:

- (A) Site Plans
- (B) Plats
- (C) Conditional use approvals
- (D) Category A Special Exceptions, and appeals of denials of Category B and C Special Exceptions by the Town Manager
- (E) Variances
- (F) Administrative appeals
- (G) Site-specific rezonings
- (H) Any other matters the Town Attorney determines are subject to quasi-judicial hearing.



**Item 7 c.**

**Ordinance No. 2013-07 2<sup>nd</sup> Reading**

**Operating Golf Carts**

**TOWN OF LOXAHATACHEE GROVES**

**ORDINANCE NO. 2013-07**

1 AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF  
2 LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE  
3 OPERATION OF GOLF CARTS ON PUBLIC ROADS WITHIN THE  
4 TOWN; PROVIDING FOR LEGISLATIVE FINDINGS; AUTHORIZING  
5 THE OPERATION OF GOLF CARTS ON PUBLIC ROADS OVER  
6 WHICH THE TOWN HAS TRAFFIC CONTROL JURISDICTION  
7 PURSUANT TO SECTION 316.212, FLORIDA STATUTES;  
8 CONFIRMING THAT GOLF CARTS MAY NOT BE OPERATED ON OR  
9 ACROSS ~~THE~~ CERTAIN PORTIONS OF FOLSOM ROAD,  
10 OKEECHOBEE BOULEVARD AND SOUTHERN BOULEVARD THAT  
11 LIE WITHIN THE TOWN; PROHIBITING THE OPERATION OF GOLF  
12 CARTS BY UNLICENSED DRIVERS; LIMITING THE NUMBER OF  
13 RIDERS ON GOLF CARTS; PROVIDING FOR IMPLEMENTATION OF  
14 THIS ORDINANCE; PROVIDING FOR CONFLICTS; PROVIDING FOR  
15 SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

16  
17 WHEREAS, Section 316.212, Florida Statutes, permits the operation of golf carts only  
18 on public roads designated by the Town for the use of golf carts; and,

19 WHEREAS, the Town Council has considered the operation of golf carts on public roads  
20 within the Town, and finds that such can be safely done given the speed, volume and character of  
21 motor vehicle traffic within the Town; and,

22 WHEREAS, as permitted by Section 316.212, Florida Statutes, the Town Council finds  
23 it in the best interests of the Town, its residents and users of public roads within the Town, that  
24 unlicensed persons be prohibited from operating golf carts upon the public roads within the  
25 Town; and,

26 WHEREAS, the Town Council determines that the adoption of this Ordinance is in the  
27 interests of the health, safety and welfare of the residents and citizens of the Town of  
28 Loxahatchee Groves.

29 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN  
30 OF LOXAHATCHEE GROVES, FLORIDA:  
31

**TOWN OF LOXAHATACHEE GROVES**

**ORDINANCE NO. 2013-07**

1        **Section 1: Recitals.** The foregoing recitals are hereby ratified as true and correct and  
2 incorporated herein.

3  
4        **Section 2: Legislative Findings.** In accordance with Section 316.212, Florida Statutes,  
5 the Town Council hereby finds that golf carts may be safely operated on public roads within the  
6 Town over which the Town has traffic control jurisdiction, based upon the following:

- 7        a. The speed limit on all public roads within the Town over which the Town has traffic  
8 control jurisdiction is thirty (30) miles per hour;
- 9        b. The public roads over which the Town has traffic control jurisdiction is already  
10 traveled upon by agricultural vehicles, bicycle traffic, and pedestrians, and such has  
11 historically been done in a safe manner; and,
- 12        c. The state law regulations as to the required standards and equipment for golf cart  
13 operation render the golf carts more safe than most of the agricultural vehicles  
14 already using the Town’s public roads.

15        **Section 3: Authority to Operate Golf Carts on Town Roads.** Pursuant to Section  
16 316.212, Florida Statutes, and except as otherwise provided herein, the Town Council hereby  
17 authorizes the operation of golf carts on all public roads within the Town over which the Town  
18 has traffic control jurisdiction, as listed on the Town Road List attached hereto as Exhibit “A.”

19        **Section 4: Prohibiting the Operation of Golf Carts by Unlicensed Drivers.**  
20 Pursuant to the authority set forth in Section 316.212(8), Florida Statutes, the operation of  
21 golf carts by unlicensed drivers within the Town is prohibited.

22        **Section 5: Confirming the prohibition of Golf Carts on certain roads.** The  
23 operation of golf carts on or across any portions of Folsom Road, ~~Okeechobee Boulevard~~ and

TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-07

1 Southern Boulevard, or on Okeechobee Boulevard within the Town’s jurisdiction is not  
2 authorized by this ordinance, and therefore shall remain prohibited as provided by Section  
3 316.212, Florida Statutes. Golf carts are permitted to cross Okeechobee Boulevard only at  
4 intersections within the Town.

5 **Section 6:** Number of Riders. The number of riders on a golf cart shall be limited  
6 to the number of available seats on a golf cart.

7 **Section 7:** Implementation. Town Management is hereby directed and  
8 authorized to take all steps necessary to implement this ordinance, including without limitation  
9 the posting of required signage. Such signage shall contain language indicating that the  
10 operation of golf carts by unlicensed drivers within the Town is prohibited.

11 **Section 87:** Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of  
12 Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such  
13 conflict.

14 **Section 98:** Severability. If any section, paragraph, sentence, clause, phrase, or word of  
15 this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void,  
16 such holding shall not affect the remainder of this Ordinance.

17 **Section 109:** Effective Date. This ordinance shall take effect immediately upon  
18 adoption.

19  
20 **PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF**  
21 **LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 1st DAY OF**  
22 **OCTOBER, 2013.**  
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**TOWN OF LOXAHATACHEE GROVES**

**ORDINANCE NO. 2013-07**

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**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN  
LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS  
3rd DAY OF DECEMBER, 2013.**

**TOWN OF LOXAHATCHEE GROVES,  
FLORIDA**

ATTEST:

\_\_\_\_\_  
Mayor David Browning

\_\_\_\_\_  
TOWN CLERK

\_\_\_\_\_  
Vice Mayor Ron Jarriel

\_\_\_\_\_  
Council Member Tom Goltzené

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Council Member Ryan Liang

\_\_\_\_\_  
Office of the Town Attorney

\_\_\_\_\_  
Council Member Jim Rockett

**TOWN OF LOXAHATACHEE GROVES**

**ORDINANCE NO. 2013-07**

**EXHIBIT A  
Town Road List**

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT  
TOWN ROAD MAINTENANCE LOG**

<b>APRIL 2013</b>		
<b>TOWN ROAD NAME</b>	<b>PLAT DESIGNATION</b>	<b>MILEAGE</b>
A Road		3.218
B Road		3.600
C Road		3.606
D Road		3.613
E Road		3.626
F Road		2.626
Folsom Road		0.487
Upper North Road		1.958
Lower North Road		1.482
G Road East		0.718
G Road West		0.718
Collecting Canal Road		3.169
10TH PLACE NORTH	BLOCK B	0.081
11TH LANE NORTH	BLOCK F	0.351
11TH TERRACE	BLOCK C	0.244
12TH PLACE NORTH	BLOCK E	0.197
131ST TERRACE NORTH	BLOCK F	0.147
13TH PLACE NORTH	BLOCK F (FOLSOM)	0.282
13TH PLACE NORTH	BLOCK F (F ROAD)	0.166
140TH STREET NORTH	CUT-THRU / SUNSPORT	0.100
147TH AVENUE NORTH	BLOCK C	0.126
147TH DRIVE NORTH	BLOCK C	0.115
148TH TERRACE NORTH	T: 43S / R: 41E	0.339
14TH PLACE NORTH	BLOCK E	0.257
152ND WAY NORTH	BLOCK B	0.068
160TH STREET NORTH	T: 43S / R: 41E	0.394
161ST TERRACE NORTH	T: 43S / R: 40E	2.014
17TH ROAD NORTH	BLOCK B	0.076
21ST ROAD NORTH	BLOCK C	0.126
22ND COURT NORTH	BLOCK F	0.292
22ND ROAD NORTH	BLOCK C (C ROAD)	0.248
22ND ROAD NORTH	BLOCK E (E ROAD)	0.156
22ND ROAD NORTH	BLOCK F (F ROAD)	0.210
23RD COURT NORTH	BLOCK E	0.189
24TH CIRCLE NORTH	BLOCK C	0.177
24TH COURT NORTH	BLOCK C (C ROAD)	0.282
24TH COURT NORTH	BLOCK D (E ROAD)	0.194
24TH COURT NORTH	BLOCK E (WEST F)	0.250
24TH COURT NORTH	BLOCK F (EAST F)	0.406
25TH PLACE NORTH	BLOCK B (C ROAD)	0.136

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT  
TOWN ROAD MAINTENANCE LOG**

<b>APRIL 2013</b>		
<b>TOWN ROAD NAME</b>	<b>PLAT DESIGNATION</b>	<b>MILEAGE</b>
<b>TOWN ROAD NAME</b>	<b>PLAT DESIGNATION</b>	<b>MILEAGE</b>
27TH LANE NORTH	BLOCK C	0.135
30TH COURT NORTH	BLOCK B (C ROAD)	0.141
30TH COURT NORTH	BLOCK D (D ROAD)	0.132
34TH PLACE NORTH	BLOCK C	0.135
35TH PLACE NORTH	BLOCK D	0.127
41ST ROAD NORTH	T: 43S / R: 41E	0.068
42ND ROAD NORTH	T: 43S / R: 41E	0.153
42ND STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.234
43RD ROAD NORTH	T: 43S / R: 41E (GLOBAL)	0.194
44TH STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.235
8TH PLACE NORTH	BLOCK C	0.319
APRIL DRIVE	BLOCK C	0.164
BIDDIX ROAD	BLOCK D	0.191
BRYAN ROAD	BLOCK F	0.749
BUNNY LANE	BLOCK C	0.244
CANAL MAINTENANCE RD	T: 43S / R: 41E (40TH ST N)	1.462
(WILSON) CASEY ROAD	BLOCK F	0.748
CITRUS DRIVE	BLOCK K	0.243
COMPTON ROAD	BLOCK F	0.748
EAST CITRUS DRIVE	BLOCK K	0.501
EDITH ROAD	BLOCK E	0.197
FARLEY ROAD	BLOCK E	0.197
FERRIS LANE	BLOCK A	0.194
FLAMINGO DRIVE	BLOCK C	0.186
FOREST LANE	BLOCK B	0.188
FORTNER DRIVE	BLOCK B (B ROAD)	0.126
FORTNER DRIVE	BLOCK B (C ROAD)	0.135
FOX TRAIL	BLOCK E	0.204
GLOBAL TRAIL	T: 43S / R: 41E	0.519
GREAT DANE LANE	BLOCK F	0.130
GRUBER LANE	BLOCK C	0.489
HYDE PARK ROAD	BLOCK E	0.518
IAN TRAIL	T: 43S / R: 41E	0.384
JEWEL LANE	BLOCK B	0.103
KAZEE ROAD	BLOCK G	0.432
KERRY LANE	BLOCK E	0.260
LOS ANGELES DRIVE	BLOCK B	0.244
LOXAHATCHEE AVENUE	BLOCK K	0.180
MARCELLA BOULEVARD	BLOCK F	0.749
MARCH CIRCLE	BLOCK F	0.174
MORROW COURT	BLOCK B	0.180
ORANGE AVENUE	BLOCK K	0.075

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT  
TOWN ROAD MAINTENANCE LOG**

<b>APRIL 2013</b>		
<b>TOWN ROAD NAME</b>	<b>PLAT DESIGNATION</b>	<b>MILEAGE</b>
<b>TOWN ROAD NAME</b>	<b>PLAT DESIGNATION</b>	<b>MILEAGE</b>
PARADISE TRAIL	BLOCK C	0.186
PERKINS DRIVE	BLOCK F	0.336
QUAIL ROAD	BLOCK F	0.135
RACKLEY ROAD	BLOCK F	0.146
RAYMOND DRIVE	BLOCK F	0.337
ROBERTS WAY	BLOCK B	0.229
SAN DIEGO DRIVE	BLOCK B	0.244
SCOTTS PLACE	BLOCK B	0.213
SHAMROCK DRIVE	BLOCK B	0.244
SIXTH COURT NORTH	BLOCK I (WEST D)	0.177
SIXTH COURT NORTH	BLOCK K (EAST D)	1.733
SNAIL TRAIL	BLOCK C	0.244
TANGERINE DRIVE	BLOCK K	0.510
TEMPLE DRIVE	BLOCK I	0.100
TIMBERLANE PLACE	BLOCK B	0.219
TRIPP ROAD	BLOCK D	0.242
VALENCIA DRIVE	BLOCK K	0.136
WEST "B" ROAD	BLOCK A	0.340
WEST "C" ROAD	BLOCK B	0.623
WEST "D" ROAD	BLOCK I (SOUTH C.C.)	0.314
WEST "D" ROAD	BLOCK C (NORTH C.C.)	0.388
WEST "F" ROAD	BLOCK E	0.198
WILLIAMS DRIVE	BLOCK B	0.193
	<b>MONTHLY MILEAGE =</b>	<b>56.718</b>

**TOWN OF LOXAHATCHEE GROVES**

**INTER-OFFICE CORRESPONDENCE**

**MEMORANDUM NO. 2013-23**

**TO:** Mayor David Browning  
Members of the Town Council  
Mark Kutney, Town Manager  
Susan Eichhorn, Town Clerk

**FROM:** Michael D. Cirullo, Jr., Town Attorney *MDC*

**RE:** Town of Loxahatchee Groves (“Town”) / Golf Cart and Other Vehicle Operation on Town Roads

**DATE:** August 6, 2013

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At its July 16, 2013, meeting, the Town Council requested legal review on the legality of operating golf carts, UTVs and similar vehicles on Town Roads. This Memorandum is intended to provide guidance on these issues.

Initially, Chapter 316, Fla. Stat., is known as the “Florida Uniform Traffic Control Law.” Section 316.007, Florida Statutes, provides in pertinent part: “The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance on a matter covered by this chapter unless expressly authorized.” §316.007, Fla. Stat. Another statute, §316.008, Fla. Stat., lists the areas in which local jurisdictions have authority over the regulation of roads and streets. The legality of operating golf carts and similar vehicles on local roads is not listed in §316.008, so the regulation of those vehicles is guided by other statutes and the Town is not authorized to deviate from such.

Golf Carts

The operation of golf carts on local roads is governed by §316.212, Fla. Stat. Subsection (1) of this statute provides:

A golf cart may be operated only upon a county road that has been designated by a county, or a municipal street that has been designated by a municipality, for use by golf carts. Prior to making such a designation, the responsible local governmental entity must first determine that golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street. Upon a determination that golf carts may be safely operated on a designated road or

street, the responsible governmental entity shall post appropriate signs to indicate that such operation is allowed.

§316.212, Fla. Stat. Ann.

Thus, in order for golf carts to be legally operated on public roads within the Town, the Town Council would need to designate the public roads within the Town on which they may be operated. However, prior to making the designation, the Town Council would need to make a determination that “golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street.” Subsequent to the designation, the Town would need to erect signage to indicate that the operation of golf carts is permitted on the designated roads.

The following steps are recommended should the Town Council wish to permit golf carts to be operated on public roads within the Town:

1. Identify the roadways which the Town Council would like reviewed in order for the Town Council to make the statutorily required determination that golf carts may safely travel on such road.
2. Direct staff to review the roadways to confirm that golf carts can be safely operated on such roads.
3. Upon receipt of the completed review of the identified roadways, adopt an ordinance to designate the roadways upon which golf carts may be operated; and,
4. Install signage on such roadways to provide notice that golf carts may be operated on such roadways.

Note that the statute provides the following regulations upon the operation of golf carts on public roads designated for such:

- The golf cart may only be operated on the public roads between sunrise and sunset. If the Town Council wants to permit operation between sunset and sunrise, the Town can provide for such in the ordinance identifying the roadways, but the golf carts must be equipped with headlights, brake lights, turn signals and a windshield in order to be operated during those hours. §316.212(5), Fla. Stat.
- Golf carts operating at any time on public roadways must be equipped with “efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.” §316.212(6), Fla. Stat.
- The minimum age to operate a golf cart on public roads is 14 years old. §316.212(7), Fla. Stat.

The Town Council can place more restrictions on the operation of golf carts on public roads within the Town by ordinance. If it did so, signage must advise of the additional restrictions. §316.212(8), Fla. Stat. The Town Council cannot waive or reduce restrictions imposed by State law.

### **Low-Speed Vehicles and Mini-Trucks**

Florida Statutes defines a “low-speed vehicle” as “any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles.” §320.01(41), Fla. Stat.

Florida Statutes defines “mini truck” as “any four-wheeled, reduced-dimension truck that does not have a National Highway Traffic Safety Administration truck classification, with a top speed of 55 miles per hour, and which is equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, and seat belts.” §320.01(44), Fla. Stat.

The operation of low speed vehicles and mini-trucks is governed by §316.2122, Fla. Stat. These vehicles are permitted to operate on public roads within the Town, unless the Town Council determines that such should be prohibited “in the interest of safety.” §316.2122(5), Fla. Stat. However, the statute does provide restrictions on such operation:

- They can be operated only on roads with a posted speed limit of 35 miles per hour or less.
- They must be equipped with headlights, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts and vehicle identification numbers.
- The vehicles must be registered with the state
- The person operating the vehicle must have their driver license in their possession.

### **All-terrain vehicles**

Florida Statutes defines All-terrain vehicle as “any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 1,200 pounds or less, designed to travel on three or more nonhighway tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger. For the purposes of this section, ‘all-terrain vehicle’ also includes any ‘two-rider ATV’ as defined in s. 317.0003.” §316.2074, Fla. Stat. A “two-rider ATV” is defined as “any ATV that is specifically designed by the manufacturer for a single operator and one passenger.” §317.0003(10), Fla. Stat. Ann.

§316.2074(5), Fla. Stat. ***prohibits*** the operation of all-terrain vehicles on public roads “except as otherwise permitted by the managing state or federal agency.” The operation of all-terrain vehicles on public roads is preempted to the state. Attorney General Opinion 2004-39 (July 14, 2004).<sup>1</sup>

### **Utility Vehicles**

Florida Statutes defines a “utility vehicle” as “a motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but the term does not include any vehicle designed or used primarily for the transportation of persons or property on a street or highway, or a golf cart, or an all-terrain vehicle as defined in s. 316.2074.” §320.01, Fla. Stat.

Florida Statutes permits municipalities to operate utility vehicles on roads within the municipality, but solely by municipal employees and for a municipal purpose. §316.2126(1), Fla. Stat. There is no provision for the operation of utility vehicles on public roads by the general public. As with all-terrain vehicles, the Town Council could take no action to permit such on public roads since the subject matter is preempted by state law.

### **Swamp buggies**

Florida Statutes defines “swamp buggy” as “a motorized off-road vehicle that is designed or modified to travel over swampy or varied terrain and that may use large tires or tracks operated from an elevated platform. The term does not include any vehicle defined in chapter 261 or otherwise defined or classified in this chapter.” §320.01(45), Fla. Stat.

The operation of swamp buggies on public roads is governed by §316.2129, Fla. Stat. In order for swamp buggies to be permitted on Town Roads, the Town Council would need to designate the roads on which they may be safely operated. Thereafter, the Town would need to post appropriate signage on such roads.

### **Conclusion**

Low-speed vehicles and mini-trucks are permitted on Town Roads without the need for any Town Council action. However, the operation of these vehicles must be consistent with §316.2122, Florida Statutes.

Golf carts and swamp buggies are not permitted to be operated on Town Roads unless the Town Council takes action to designate the public roads on which they may be operated, and then posts appropriate signage. In both cases, the Town Council must determine that these types of vehicles may be operated safely on the designated roads. Florida Statutes also provides

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<sup>1</sup> Note that Florida Statutes permits law enforcement agencies to use all-terrain vehicles, golf carts, low-speed vehicles, and utility vehicles on public roads for law enforcement purposes. §316.21265, Fla. Stat.

Inter-Office Memorandum 2013-23

August 6, 2013

Page 5

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restrictions on the operation of golf carts on public roads. §316.212, Fla. Stat. The Town may place additional restrictions (but not waive or eliminate those in the statutes) by ordinance.

All-terrain vehicles and utility vehicles are prohibited by state law from being operated on public roads, except by law enforcement or, for utility vehicles, by a municipality for municipal purposes. The state has preempted this matter, so the Town Council cannot take any action to permit all-terrain vehicles or utility vehicles to be operated on Town Roads.

Upon your review, please advise of any questions or concerns.

MDC:clb

Enclosure

H:\\_GOV CLIENTS\LOX 1574\\_070240 GM\MEMOS 2013\2013-23 (golf cart and other vehicles-Town Rds).docx

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT  
TOWN ROAD MAINTENANCE LOG**

<b>APRIL 2013</b>		
<b>TOWN ROAD NAME</b>	<b>PLAT DESIGNATION</b>	<b>MILEAGE</b>
A Road		3.218
B Road		3.600
C Road		3.606
D Road		3.613
E Road		3.626
F Road		2.626
Folsom Road		0.487
Upper North Road		1.958
Lower North Road		1.482
G Road East		0.718
G Road West		0.718
Collecting Canal Road		3.169
10TH PLACE NORTH	BLOCK B	0.081
11TH LANE NORTH	BLOCK F	0.351
11TH TERRACE	BLOCK C	0.244
12TH PLACE NORTH	BLOCK E	0.197
131ST TERRACE NORTH	BLOCK F	0.147
13TH PLACE NORTH	BLOCK F (FOLSOM)	0.282
13TH PLACE NORTH	BLOCK F (F ROAD)	0.166
140TH STREET NORTH	CUT-THRU / SUNSPORT	0.100
147TH AVENUE NORTH	BLOCK C	0.126
147TH DRIVE NORTH	BLOCK C	0.115
148TH TERRACE NORTH	T: 43S / R: 41E	0.339
14TH PLACE NORTH	BLOCK E	0.257
152ND WAY NORTH	BLOCK B	0.068
160TH STREET NORTH	T: 43S / R: 41E	0.394
161ST TERRACE NORTH	T: 43S / R: 40E	2.014
17TH ROAD NORTH	BLOCK B	0.076
21ST ROAD NORTH	BLOCK C	0.126
22ND COURT NORTH	BLOCK F	0.292
22ND ROAD NORTH	BLOCK C (C ROAD)	0.248
22ND ROAD NORTH	BLOCK E (E ROAD)	0.156
22ND ROAD NORTH	BLOCK F (F ROAD)	0.210
23RD COURT NORTH	BLOCK E	0.189
24TH CIRCLE NORTH	BLOCK C	0.177
24TH COURT NORTH	BLOCK C (C ROAD)	0.282
24TH COURT NORTH	BLOCK D (E ROAD)	0.194
24TH COURT NORTH	BLOCK E (WEST F)	0.250
24TH COURT NORTH	BLOCK F (EAST F)	0.406
25TH PLACE NORTH	BLOCK B (C ROAD)	0.136

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT  
TOWN ROAD MAINTENANCE LOG**

<b>APRIL 2013</b>		
<b>TOWN ROAD NAME</b>	<b>PLAT DESIGNATION</b>	<b>MILEAGE</b>
<b>TOWN ROAD NAME</b>	<b>PLAT DESIGNATION</b>	<b>MILEAGE</b>
27TH LANE NORTH	BLOCK C	0.135
30TH COURT NORTH	BLOCK B (C ROAD)	0.141
30TH COURT NORTH	BLOCK D (D ROAD)	0.132
34TH PLACE NORTH	BLOCK C	0.135
35TH PLACE NORTH	BLOCK D	0.127
41ST ROAD NORTH	T: 43S / R: 41E	0.068
42ND ROAD NORTH	T: 43S / R: 41E	0.153
42ND STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.234
43RD ROAD NORTH	T: 43S / R: 41E (GLOBAL)	0.194
44TH STREET NORTH	T: 43S / R: 41E (OFF 160TH)	0.235
8TH PLACE NORTH	BLOCK C	0.319
APRIL DRIVE	BLOCK C	0.164
BIDDIX ROAD	BLOCK D	0.191
BRYAN ROAD	BLOCK F	0.749
BUNNY LANE	BLOCK C	0.244
CANAL MAINTENANCE RD	T: 43S / R: 41E (40TH ST N)	1.462
(WILSON) CASEY ROAD	BLOCK F	0.748
CITRUS DRIVE	BLOCK K	0.243
COMPTON ROAD	BLOCK F	0.748
EAST CITRUS DRIVE	BLOCK K	0.501
EDITH ROAD	BLOCK E	0.197
FARLEY ROAD	BLOCK E	0.197
FERRIS LANE	BLOCK A	0.194
FLAMINGO DRIVE	BLOCK C	0.186
FOREST LANE	BLOCK B	0.188
FORTNER DRIVE	BLOCK B (B ROAD)	0.126
FORTNER DRIVE	BLOCK B (C ROAD)	0.135
FOX TRAIL	BLOCK E	0.204
GLOBAL TRAIL	T: 43S / R: 41E	0.519
GREAT DANE LANE	BLOCK F	0.130
GRUBER LANE	BLOCK C	0.489
HYDE PARK ROAD	BLOCK E	0.518
IAN TRAIL	T: 43S / R: 41E	0.384
JEWEL LANE	BLOCK B	0.103
KAZEE ROAD	BLOCK G	0.432
KERRY LANE	BLOCK E	0.260
LOS ANGELES DRIVE	BLOCK B	0.244
LOXAHATCHEE AVENUE	BLOCK K	0.180
MARCELLA BOULEVARD	BLOCK F	0.749
MARCH CIRCLE	BLOCK F	0.174
MORROW COURT	BLOCK B	0.180
ORANGE AVENUE	BLOCK K	0.075

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT  
TOWN ROAD MAINTENANCE LOG**

<b>APRIL 2013</b>		
<b>TOWN ROAD NAME</b>	<b>PLAT DESIGNATION</b>	<b>MILEAGE</b>
<b>TOWN ROAD NAME</b>	<b>PLAT DESIGNATION</b>	<b>MILEAGE</b>
PARADISE TRAIL	BLOCK C	0.186
PERKINS DRIVE	BLOCK F	0.336
QUAIL ROAD	BLOCK F	0.135
RACKLEY ROAD	BLOCK F	0.146
RAYMOND DRIVE	BLOCK F	0.337
ROBERTS WAY	BLOCK B	0.229
SAN DIEGO DRIVE	BLOCK B	0.244
SCOTTS PLACE	BLOCK B	0.213
SHAMROCK DRIVE	BLOCK B	0.244
SIXTH COURT NORTH	BLOCK I (WEST D)	0.177
SIXTH COURT NORTH	BLOCK K (EAST D)	1.733
SNAIL TRAIL	BLOCK C	0.244
TANGERINE DRIVE	BLOCK K	0.510
TEMPLE DRIVE	BLOCK I	0.100
TIMBERLANE PLACE	BLOCK B	0.219
TRIPP ROAD	BLOCK D	0.242
VALENCIA DRIVE	BLOCK K	0.136
WEST "B" ROAD	BLOCK A	0.340
WEST "C" ROAD	BLOCK B	0.623
WEST "D" ROAD	BLOCK I (SOUTH C.C.)	0.314
WEST "D" ROAD	BLOCK C (NORTH C.C.)	0.388
WEST "F" ROAD	BLOCK E	0.198
WILLIAMS DRIVE	BLOCK B	0.193
	<b>MONTHLY MILEAGE =</b>	<b>56.718</b>



**Item 9 c.**

**Resurfacing w North Florida Emulsions re Bryan, Compton and Marcella  
Roads**

# North Florida Emulsions, Inc.

## Preventative Maintenance Specialists



701 North Moody Road #15 • Palatka, Florida 32177  
Phone: 386-328-1733 • Fax: 386-328-1887

[Northflemulsions@bellsouth.net](mailto:Northflemulsions@bellsouth.net)



# **NORTH FLORIDA EMULSIONS, INC.**

## **General Contractors**

### **PREVENTATIVE MAINTENANCE SPECIALISTS**

#### **COLD MIX PAVING:**

Porous emulsified asphalt pavement for improving dirt roads. Talk to Volusia County, St. Johns County or Leon County.



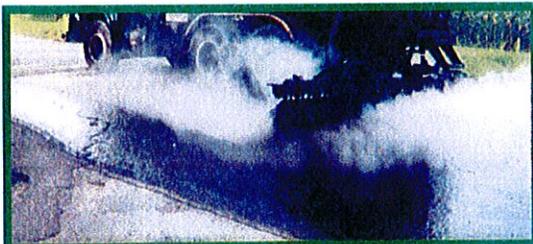
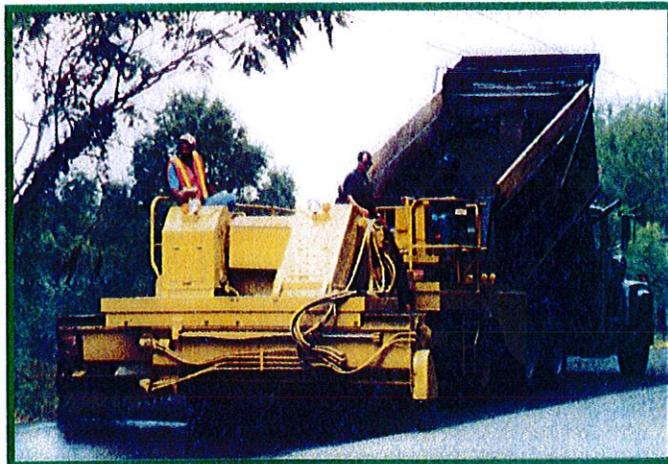
#### **MICRO SURFACING:**

A new preventative maintenance service to encapsulate crack filling and pothole patch repair with black asphalt appearance as performed in Palm Coast, Palm Bay, Polk County, St. Augustine.

#### **CAPE SEALING:**

First application of Chip Sealing for a flexible base.

Second application of Micro Surface for a Black Asphalt looking finish as done in Polk County.



#### **FOG SEALING:**

Rejuvenates oxidized asphalt, also great for revitalizing Cold Mix Paving projects. Talk to Volusia County or Palm Bay.



### FULL DEPTH RECLAMATION:

North Florida Emulsions, Inc. offers a "Tailored to your needs" emulsion recycling environmentally friendly road program.

A reclaimed base using emulsion provides the greatest strength for road base stability, less cost and no remove or replace.



### CHIP SEALING:

A new polymer modified emulsions guarantee quicker curing time and greater aggregate adhesion.

### STRESS RELIEF:

A program for new asphalt overlay projects as used in St. Johns County.

### CRACK SEALING:

The Birth and Maturity of a Crack.

Crack Sealing - will deter water from starting its destructive process.

Cracks are influenced by temperature, traffic, and flexibility.

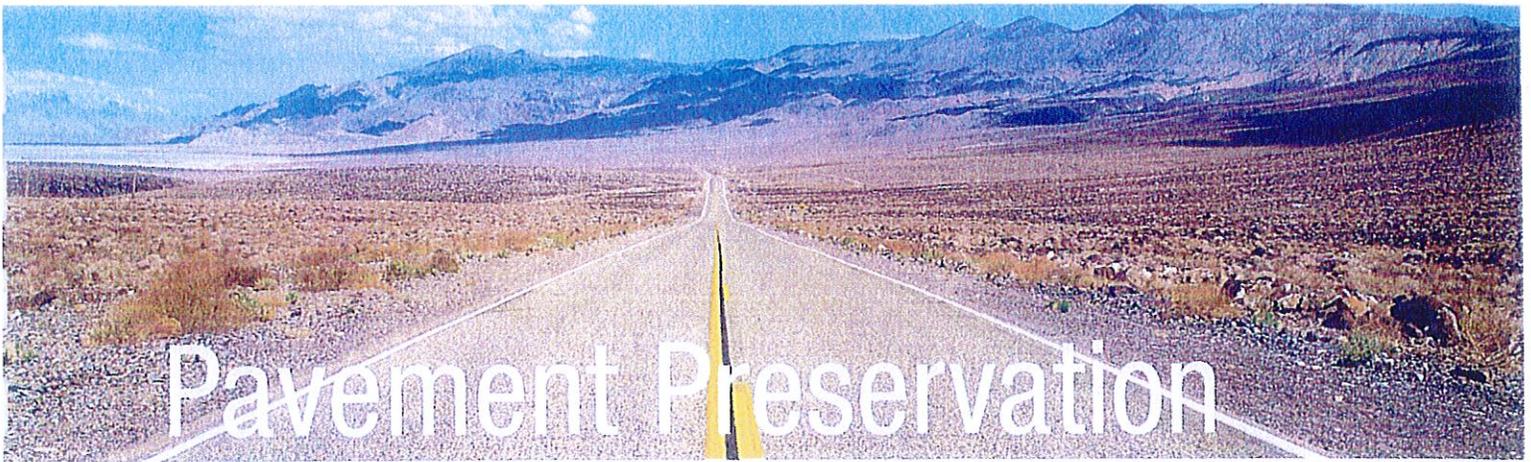
Crack sealing various types of surface defects will help make a pavement impervious to water. Extensive cracks may require more than routine maintenance. However, the use of a crack sealing program is a major step in pavement rehabilitation, and can dramatically increase pavement life.



### SERVICES OFFERED

*Cold Mix Paving • Micro-Surfacing • Cape Sealing • Fog Sealing  
Full Depth Reclamation • Stress Relief • Crack Sealing • Bulk Emulsions (Tack)*

North Florida Emulsions, Inc.  
701 North Moody Road #15 • Palatka, FL 32178  
Tel: 386-328-1733 • Fax: 386-328-1887



“Keep good roads in good condition.” Nothing lasts forever. Every road surface eventually deteriorates. The key to prolonging a pavement's lifespan is to protect it from exposure, mechanical wear and water. Pavement preservation is a strategy of managing pavement condition to maximize the pavement's lifespan at the minimum cost. This is achieved by careful planning and selection of the right protective application at the optimum time. In most cases that is before the pavement shows visual signs of distress.

A pavement preservation program provides significant benefits. Pavements will remain structurally sound and provide maximum traffic availability and optimum safety. Crack sealing, pothole patching and other corrective maintenance techniques can be reduced or eliminated. Disruptive, time-consuming and expensive pavement replacement can be postponed. A pavement preservation program provides the driving public with a higher level of pavement quality while reducing life cycle costs and user delays.

Pavement preservation is a philosophy that can be applied to all types of roads, from basic gravel roads to the most heavily trafficked Superpave pavements. Through a variety of applications, emulsions play a vital role in maintaining pavements in the best possible condition with the minimum investment.

**NORTH FLORIDA EMULSIONS, INC.**  
701 NORTH MOODY ROAD # 15  
PALATKA, FLORIDA 32177  
(386) 328-1733 FAX (386) 328-1887  
[NORTHFLEMULSIONS@BELLSOUTH.NET](mailto:NORTHFLEMULSIONS@BELLSOUTH.NET)



Our Goods and Services include:

**Open Graded Cold Mix (OGEM)** - a porous pavement laid on unimproved dirt roads.

**Cold Mix Thin Overlay**- Cold Mix compacted to 1½" – 2" on existing distressed or slick pavement.

**Micro-Surfacing**-A cost effective surface overlay to correct minor surface irregularities, add greater skid resistance and not interfere with curb reveal.

**Cape Sealing and Stress Relief Layers**-A polymer modified chip seal placed prior to the application of micro-surfacing or hot mix overlays. This reduces the stress of cracking into the surface course or existing pavement.

**Chip Sealing**-Application of a polymer modified emulsion and high friction aggregate to the roadway; (asphalt, concrete, pavement or dirt road), that also seals small cracks and increases the pavement life.

**Full Depth Reclamation (FDR)**-Recycles the old pavement into the existing base, then injected with a asphalt based stabilizer. This eliminates existing cracks and deteriorated pavement creating a strong stabilized base course for new asphalt overlays.

**Fog Seal**-Puts asphalt and color back into your oxidized pavements to extend its service life.

**Crack Sealing**-A cost effective method to extend the life of pavements by sealing out moisture intrusion that generally causes pot holes and spalling of smaller cracks.

**Bulk Emulsion**-Specific types of emulsions designed to fit specific needs.

**NORTH FLORIDA EMULSIONS, INC.**  
**GOODS AND SERVICES**

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# SECTION 1

## Micro-Surfacing Projects in Florida & Georgia with Micro-Surfacing Specifications

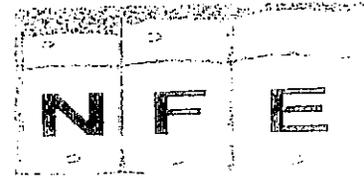
**NORTH FLORIDA EMULSIONS, INC.**

701 North Moody Rd # 15

Palatka, Florida 32177

(386) 328-1733 Fax (386) 328-1887

Northflemulsions@bellsouth.net



**Experience and Certification**

This is to certify that North Florida Emulsions, Inc. has a minimum three years experience in Florida in the application of micro-surfacing.

Below is a partial listing of:

**Micro-Surfacing Projects in Florida**

Town of Palm Beach  
951 Old Okeechobee Rd  
West Palm Beach, Florida  
33401  
Joseph Ugi  
561-227-7018

Dania Beach  
100 W. Dania Beach Blvd  
Dania Beach, Florida 33004  
Leo Williams  
954-924-3743

Hernando County  
1525 E. Jefferson St.  
Brooksville, Florida 34601  
Chris Wert  
352-754-4423

City of Lake Worth  
7 N. Dixie Highway  
Lake Worth, Florida 33460  
Joseph Kroll  
561-586-1600

City of Lake Mary  
911 Wallace Ct.  
Lake Mary, Florida 32746  
David Dovan  
407-585-1450

Sarasota County  
101 Sarasota Center Blvd  
Sarasota, Florida 34240  
Gary Downing  
941-861-0878

St. Johns County  
Engineering Department  
2740 Industry Center Road  
St. Augustine, Florida 34601  
Greg Caldwell  
904-209-0655

Hall County  
116 Spring Street  
Gainesville, Georgia  
Ken Rearden  
770-531-6800

Polk County  
Construction & Testing  
Drawer PW09, Box 9005  
Bartow, Florida 33831  
Ed Jordon  
863-534-6763

Marsh Creek  
Dunn & Associates, Inc  
Dix Ellis Trail, #102  
Jacksonville, Florida 32256  
Vincent J. Dunn  
904-363-8916

Palm Bay  
120 Malabar Road SE  
Palm Bay, Florida 32907  
Chad Shoultz  
321-952-3424

Clay County  
5 Esplanade Avenue  
Green Cove Springs, Florida  
Dave Austin  
904-278-3633

Deer Island  
Severn Trent Services  
610 Sycamore Street 8375  
Celebration, Florida 34747  
Bob Nanni  
407-566-2014

Village of Highland Park  
1920 S. Highland Park Rd  
Lake Wales, Florida 33998  
Earl Sehi  
863-676-1840

Screven County  
216 Mims Rd.  
Sylvania, GA 30467  
Rick Jordan  
912-564-7535

# MICRO-SURFACING

Micro-surfacing is a mixture of dense-graded aggregate, polymer modified asphalt emulsion, water, mineral fillers and other additives. The polymer modified emulsion and other additives allow micro-surfacing to cure more quickly so it can be placed in greater depths — from 3/8 to 1 1/2 inches (0.95-3.8 cm) per pass. Micro-surfacing is designed to be stronger and to provide superior durability to slurry seal. The quicker cure reduces user delays with traffic return often within an hour of construction.

## THE PROCESS

The micro-surfacing design is performed in the laboratory using instrumentation developed to determine optimal emulsion curing time and additive rates for the project aggregate. A continuously run machine is used for mixing the components. The material flow rates are continuously monitored as the components are fed into the pug mill where they are thoroughly mixed. The mix is then poured into a sled that is pulled behind the machine.

The sled is equipped with augers to move the relatively stiff material to the full width of the sled. The material is extruded from the backside of the sled at a predetermined depth. The quick setting micro-surfacing emulsion allows traffic to return in about an hour. Micro-surfacing is typically available in two aggregate sizes.

Type II, the most commonly used type, uses a coarse aggregate and is used for all applications including arterial roads, residential areas, highways and airports.

Type III uses the coarsest aggregate and is used on higher traffic pavements, including freeways, high speed roads, industrial applications and runways.

## SITE SELECTION

Pavement candidates may be asphalt or concrete pavements in good structural condition with low severity surface distresses, polished surfaces, raveling and minor rutting. Micro-surfacing is well suited for high traffic arterial roads because its quick setting emulsions allow both quick traffic return and night construction. Micro-surfacing also works well for runways and taxiways on airports. The high friction surface provides excellent skid resistance with no loose aggregates to damage engines or propellers. Micro-surfacing is ideal for residential streets because of its deep black color that enhances the



appeal of the neighborhood and a smooth surface that is conducive to biking and rollerblading. Micro-surfacing is one of the few surface treatments that can be used to fill ruts and deeper depressions with a purpose-built sled called a rut box.

## BENEFITS

- *The quick setting emulsion reduces user delay by allowing traffic in about an hour after construction.*
- *Micro-surfacing may be used for surface improvement and protection of both asphalt or concrete pavements (tack coat required).*
- *The surface increases skid resistance.*
- *Micro-surfacing has an attractive, smooth black surface which aids in lane delineation.*
- *Micro-surfacing emulsions have a chemical break, allowing them to be successfully applied in a broad range of temperatures and weather conditions, effectively lengthening the paving season.*
- *The quick setting emulsion makes micro-surfacing suitable for night application on heavy-traffic streets, highways and airfields.*
- *Micro-surfacing fills depressions, small cracks and ruts, and provides some surface leveling.*
- *Micro-surfacing is a cost-effective, long-lasting pavement preservation treatment that seals the road surface and protects the pavement from water, weathering, UV deterioration, mechanical wear and road salts, prolonging the lifespan of the underlying pavement.*

# MICRO-SURFACING

## TECHNICAL SPECIFICATIONS

- 1.0 Scope:** This specification covers materials, equipment, construction and application procedures for micro-surfacing and rut filling of paved surfaces.
- 2.0 Description:** Micro-Surfacing is a mixture of polymer-modified asphalt emulsion, mineral aggregate, mineral filler, water and other additives, properly proportioned, mixed and spread on a paved surface in accordance with a specification and as directed by the engineer.

Micro-Surfacing should be capable of being spread in variable thick cross-sections (wedges, ruts, scratch courses and surfaces) which, after curing and initial traffic consolidation, resists compaction throughout the entire design tolerance range of bitumen content and variable thickness to be encountered. The end product should maintain a skid-resistant surface (high wet friction co-efficient) in variable thick sections throughout the service life of the Micro-Surfacing.

## 3.0 MATERIALS

- 3.1 AGGREGATE:** The mineral aggregate used shall be of the type and grade specified for the particular use of the Micro-Surfacing. The aggregate shall be a manufactured crushed stone such as granite, slag, or other high-quality aggregate, or a combination thereof. To assure the material is totally crushed, 100 percent of the parent aggregate will be larger than the largest stone in the gradation to be used.
- 3.2 TESTING:** When tested according to the following tests, the aggregate should meet these minimum requirements:

<u>AASHTO TEST NO.</u>	<u>ASTM TEST NO.</u>	<u>QUALITY</u>	<u>SPECIFICATION</u>
AASHTO T176	ASTM 2419	Sand Equivalent	65 Minimum 15% Maximum using
AASHTO T104	ASTM C88	Soundness	NA <sub>2</sub> SO <sub>4</sub> or 25% Maximum using MgSO <sub>4</sub>
AASHTO T96	ASTM C131	Abrasion Resistance	30% Maximum

The abrasion test is to be run on the parent aggregate. The aggregate should meet state-approved polishing values. Proven performance may justify the use of aggregates that may not pass all of the above tests.

**3.3 GRADATION:** When tested in accordance with AASHTO T27 (ASTM C136) and AASHT T11 (ASTO C117), the target (mix design) aggregate gradation (including the mineral filler) shall be within one of the following bands ( or one currently recognized by your local paving authority.

		<u>TYPE II</u>	<u>TYPE III</u>	
	<u>SIEVE</u>	<u>PERCENT</u>	<u>PERCENT</u>	<u>STOCKPILE</u>
	<u>SIZE</u>	<u>PASSING</u>	<u>PASSING</u>	<u>TOLERANCE</u>
3/8	(9.5mm)	100	100	
#4	(4.75mm)	90-100	70-90	+5%
#8	(2.36mm)	65-90	45-70	+5%
#16	(1.18mm)	45-70	28-50	+5%
#30	(600 um)	30-50	19-34	+5%
#50	(330um)	18-30	12-25	+5%
#100	(150um)	10-21	7-18	+5%
#200	(75um)	5-15	5-15	+5%

The job mix (target) gradation shall be within the gradation band for the desired type. After the target gradation has been submitted (this should be the gradation that the mix design is based on), then the percent passing each sieve shall not vary by more than the stockpile tolerance shown in the above table for each individual sieve, and still remain within the gradation band. It is recommended that the percent passing shall not go from the high end to the low end of the range for any two consecutive screens. Contractor shall provide certification from the aggregate supplier that the material meets the gradation provided in the mix design.

Screening shall be required at the stock pile to delivery to the paving machine if there are any problems created by having oversize material in the mix.

#### **4.1 EMULSIFIED ASPHALT**

**4.1.1 GENERAL:** The emulsified asphalt shall be a quick-traffic, polymer-modified asphalt emulsion conforming to the requirements specified in AASHTO M208 or ASTM 2397 FOR CSS-1h. The cement mixing test shall be waived for this emulsion. The polymer material shall be milled or blended into the asphalt or emulsifier solution prior to the emulsified process. The minimum amount and type of polymer-modifier shall be determined by the mix design. The minimum amount required will be based on asphalt weight content and will be certified by the emulsion supplier. In general, a three percent (3%) polymer solids, based on asphalt weight, is considered minimum. The five-day (5) settlement test may be

waived, provided job stored emulsion is used within thirty-six (36) hours from the time of the shipment, or the stored material has had additional emulsion blended into it prior to use. Contractor or emulsion manufacturer will provide written certification that they have manufactured emulsified asphalt for a minimum three (3) years in the state of Florida and is a licensed General Contractor licensed in the state of Florida. A list of Florida contracts completed during the past three (3) years shall accompany the bid.

**4.1.2 TESTING:** When tested according to the following tests, the emulsion shall meet the requirements of AASHTO M208 or ASTM 2397 for CSS1-h, plus the following:

<u>AASHTO TEST NO.</u>	<u>ASTM TEST NO.</u>	<u>QUALITY</u>	<u>SPECIFICATION</u>
		Residue after	
AASHTO T59	ASTM 244	Distillation	62% Minimum

The temperature for this test should be held below 280 degrees Fahrenheit (138 degrees Celsius). Higher temperatures may cause the polymers to break down.

**4.1.3 MINERAL FILLER:** Mineral filler, if required, shall be any recognized brand of non-air entrained Portland cement or hydrated lime that is free from lumps. It may be accepted upon visual inspection.

**4.1.4 WATER:** The water shall be potable and free of harmful soluble salts or reactive chemicals and any other contaminants.

**4.1.5 ADDITIVES:** Additives may be added to the emulsion mix or any of the component materials to provide the control of the quick-traffic properties.

## 5.0 MIX DESIGN

**5.1 GENERAL:** Seven (7) days before the work commences, the contractor shall submit a signed mix design covering the specific materials to be used on the project. This design will be performed by a laboratory which has experience in designing Micro-Surfacing. After the mix design has been approved, no substitution will be permitted, unless approved by the engineer.

**5.2 TESTING:** Compatibility of the aggregate, polymer-modified emulsion, mineral filler, and other additives shall be verified by the emulsion manufacturer. The mix design shall be made with the same aggregate gradation that the contractor will provide on the project. All component materials used in the mix design shall be representative of the materials proposed by the contractor to be used on the project.

The percentages of each individual material required shall be shown in the laboratory report. Adjustments may be required during construction, based on field conditions. The engineer will give final approval for all such adjustments.

**5.3 RATE OF APPLICATION:** The Micro-Surfacing mixture shall be of the proper consistency at all times, so as to provide the application rate required by the surface condition. The average application rate shall be in accordance with the following table.

<u>AGGREGATE TYPE</u>	<u>SUGGESTED APPLICATION RATE</u>
Type I Single Course	18-22 lb. /sq. yd.
Type II Double Course	28-32 lb. /sq. yd.
Type III Rut Fill	15-30 lb. / sq. yd.

Suggested application rates are based upon the weight of dry aggregate in the mixture. Application rates are affected by the unit weight of the aggregate.

Micro-Surfacing is often put down in two full-width passes in place of rut-filling when the rutting or deformation is not severe. When two passes are used, the first pass (scratch course) is made using a metal or stiff rubber strike-off and applying only what the surface demands for leveling. The second course applied at 15-30 lb. / sq. yd.

## **6.0 EQUIPMENT**

**6.1 GENERAL:** All equipment, tools, and machines used in the performance of this work shall be maintained in satisfactory working condition at all time to ensure a high-quality product.

**6.2 MIXING EQUIPMENT:** The truck mounted machine shall be specifically designed and manufactured to lay Micro-Surfacing. The material shall be mixed by an automatic-sequenced, self-propelled Micro-Surfacing mixing machine, which shall be a continuous-flow mixing unit able to accurately deliver and proportion the aggregate, emulsified asphalt, mineral filler, control setting additive, and water to a revolving multi-blade, double-shafted mixer and to discharge the mixed product on a continuous-flow basis. The machine shall have sufficient storage capacity for aggregate, emulsified asphalt, mineral filler, control additive and water to maintain an adequate supply to the proportioning controls.

**6.3 PROPORTIONING DEVICES:** Individual volume or weight controls for proportioning each material to be added to the mix (i.e. aggregate, mineral filler, emulsified asphalt, additive and water) shall be provided and properly marked. These proportioning devices are used in material calibration and determining the material output at any time.

**6.4 SPREADING EQUIPMENT:** The mixture shall be agitated and spread uniformly in the surfacing box by means of twin shafted paddles or spiral augers fixed in the spreader box. A front seal shall be provided to insure no loss of the mixture at the road contact point. The rear seal shall act as a final strike-off and shall be adjustable. The spreader box and rear strike off shall be so designed

and operated that a uniform consistency is achieved to produce a free flow of material to the rear strike-off. The spreader box shall have suitable means provided to side shift the box to compensate for variations in the pavement geometry.

**6.4.1 SECONDARY STRIKE-OFF:** A secondary strike-off shall be provided to improve surface texture. The secondary strike-off shall have the same adjustments as the spreader box.

**6.4.2 RUT-FILLING BOX:** When required on the plans, before the final surface course is placed, preliminary micro-surfacing material may be required to fill ruts, utility cuts, depressions in the existing surface, etc. Ruts of one-half (1/2) inch or greater in depth shall be filled independently with a rut-filling spreader box, either five foot (5) or six foot (6) in width. For irregular or shallow rutting of less than one-half (1/2) in depth, a full-width scratch-coat pass may be used as directed by the engineer. Ruts that are in excess of one and one-half (1 1/2) inches in depth may require multiple placements with the rut-filling spreader box to restore the cross-section. All rut-filling level-up material should cure under traffic for at least a twenty-four (24) hour period before additional material is placed on top of the level up.

**6.5 AUXILLARY EQUIPMENT:** Suitable surface preparation equipment, traffic control equipment, hand tools, and any other support and safety equipment shall be provided by the contractor as necessary to perform the work.

**6.6 CALIBRATION:** Each mixing unit to be used in the performance of the work shall be calibrated in the presence of the engineer prior to construction. Previous calibration documentation covering the exact materials to be used may be acceptable, provided that no more than 90 days have lapsed. The documentation shall include an individual calibration of each material at various settings, which can be related to the machine metering devices. No machine will be allowed to work on the project until calibration has been completed and/or accepted.

**6.7 WEATHER LIMITATIONS:** Micro-surfacing shall not be applied if air temperature is below fifty (50) degrees Fahrenheit and falling, and the weather is not foggy or when rain is present. No micro-surfacing shall be applied when there is the possibility that the finished product will freeze within 24 hours. The mixture shall not be applied when weather conditions prolong opening to traffic beyond a reasonable time.

## **7.0 NOTIFICATION AND TRAFFIC CONTROL**

**7.1 NOTIFICATION:** All homeowners and business affected by the construction shall be notified one day in advance of the surfacing. Suitable signs may be posted prior to the surfacing. Should work not occur on the specified day, a new notification will be distributed. The notification shall be in a form of a written posting, starting the time and date that the surfacing will take place.

**7.2 TRAFFIC CONTROL:** All traffic control devices shall be in accordance with State and Federal requirements and, further, shall conform to the requirements of The Manual on Uniform Traffic Control Devices. Suitable methods shall be used by the contractor to protect the micro-surfacing from damage from all types of vehicular traffic. Opening to traffic does not constitute acceptance of the work. The engineer shall be notified of the methods to be used.

## **8.0 SURFACE PREPERATION**

**8.1 GENERAL:** immediately prior to applying the Micro-Surfacing, the surface shall be cleared of all loose material, silt spots, vegetation, an other objectionable material. Any standard cleaning method will be acceptable. If water is used, cracks shall be allowed to dry thoroughly before applying micro-surfacing. Manholes, valve boxes, drop inlets and other service entrances shall be protected from the micro-surfacing by a suitable method. The engineer shall approve the surface preparation prior to the surfacing. No dry aggregate either spilled from the lay-down machine or existing on the road, will be permitted.

## **9.0 APPLICATION**

**9.1 GENERAL:** When required by local conditions, the surface shall be pre-wetted by fogging ahead of the spreader box. The rate of application of the fog spray shall be adjusted during the day to suit temperatures, surface textures, humidity, and dryness of the pavement.

The micro-surfacing shall be of the desired consistency upon leaving the mixer. A sufficient amount of material shall be carried in all parts of the spreader at all times so that a complete coverage is obtained. Overloading of the spreader shall be avoided. No lumping, balling, or unmixed aggregate shall be permitted.

No streaks, such as those caused by oversized aggregate, shall be left in the finished surface. If excess streaking develops, the job will be stopped until the contractor proves to the engineer that the situation has been corrected.

**9.2 JOINTS:** No excess buildup, uncovered areas, or unsightly appearance shall be permitted on longitudinal or transverse joints. The contractor shall provide suitable-width, spreading equipment to produce a minimum number of longitudinal joints throughout the project. When possible, longitudinal joints shall be placed on lane lines. Half passes and odd-width passes will be used only in minimum amounts. If half passes are used, they shall not be the last pass of any paved area. A maximum of three (3) inches shall be allowed for overlap of longitudinal lane line joints. Also, the joint shall have no more than a one-fourth (1/4) inch difference in elevation when measured by placing a ten (10) foot straight edge over the joint and measuring the elevation drop off.

**9.3 MIX STABILITY:** The micro-surfacing shall processes sufficient stability so that premature breaking of the material in the spreader box does not occur. The mixture shall be homogenous during the following mixing and spreading. It shall be free of excess water or emulsion and free of segregation of the emulsion and aggregation fines from the coarser aggregate. Under no circumstances shall water be sprayed directly into the lay-down while laying micro-surfacing material.

**9.4 HANDWORK:** Areas which cannot be reached with the mixing machine shall be surfaced using hand squeegees to provide complete and uniform coverage. If necessary, the area to be hand worked shall be lightly dampened prior to mix placement. Care shall be exercised to leave no unsightly appearance from handwork.

**9.5 LINES:** Care shall be taken to ensure straight lines along curbs and shoulders. No runoff on these areas will be permitted. Lines at intersections will be kept straight to provide a good appearance. If necessary, a suitable material will be to mask off the end of streets to provide straight lines. Edge lines shall not vary by more than + 2 inches horizontal variance in any 96 feet of length.

**9.6 CLEAN-UP:** All areas, such as man-ways, gutters, and intersections, shall have the micro-surfacing mix removed as specified by the engineer. The contractor shall, on a daily basis, remove any debris associated with performance of the work.

**10.0 OTHER AGENCIES:** All respondents awarded contracts from this request for qualifications are given the right upon the agreement of both parties to permit other municipality or governmental agencies to participate in the contract under the same price, terms and conditions. It is understood that at no time will any city or municipality or other agency. Further it is understood that each agency will issue its own purchase order to the awarded respondents.

**11.0 PAYMENT:** The micro-surfacing shall be paid for by the square yard of the aggregate and emulsified asphalt used on the work and accepted by the engineer. The price shall be full compensation for furnishing all preparation; mixing and applying these materials; and for all labor, equipment, cleaning, and incidentals necessary to complete the job as specified herein.

**NORTH FLORIDA EMULSIONS, INC.**

701 North Moody Rd # 15

Palatka, Florida 32177

(386) 328-1733 Fax (386) 328-1887

[Northflemulsions@bellsouth.net](mailto:Northflemulsions@bellsouth.net)



**Experience and Certification**

This is to certify that North Florida Emulsions, Inc. has a minimum three years experience in Florida in placing open-graded emulsion mixes on unpaved roads. Below is a partial listing of:

**Cold Mix Projects in Florida**

S.I.R.W.C.D.  
15600 Jupiter Farms Rd  
Jupiter, Florida 33478  
Mike Dillon  
561-747-0550

Putnam County  
223 Putnam County Blvd.  
P.O. Box 310  
E. Palatka, Florida 32131  
Donald Jacobovitz  
386-329-0346

Baker County  
55 North Third Street  
Macclenny, Florida 32063  
Joe Cone  
904-259-3613

City of Lake Mary  
911 Wallace Court  
Lake Mary, Florida 32746  
David Doan  
407-585-1450

Volusia County  
2560 West SR 44  
Deland, Florida 32720  
Marvin Jones  
386-717-4800

Leon County  
2280 Miccosukee Road  
Tallahassee, Florida 32308  
Dale Walker  
561-747-0550

St. Johns County, Eng. Div.  
2740 Industry Center Rd  
St. Augustine, Florida 32084  
Press Tompkins  
904-209-1070

Anderson Columbia  
950 Business Park Road  
Midway, Florida 32343  
Gene Strickland  
580-526-4440

Osceola County  
3850 Old Canoe Creek Rd  
St. Cloud, FL 34769  
Matthew Perry  
407-343-7164

City of Debarry  
137 S. Charles Richard Bell Rd  
Debarry, FL 32713  
Jeremy Morton  
407-322-6841

## SECTION 2

Cold Mix Projects in Florida

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Cold Mix Specifications

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Thin Overlay Specifications

## OPEN GRADED EMULSION MIX (COLD MIX ASPHALT BASE)

### TECHNICAL SPECIFICATIONS

#### SCOPE OF WORK

**1.0 Description:** The primary work specified in this section consists of constructing a cold mix open-graded asphalt base composed of aggregate and polymer-modified emulsified asphalt mixed into a uniformly, well coated mass. Spread on a prepared sub-grade, compacted to the lines, grades, and thickness established by the owner agency.

**1.1** The contractor will supply all materials including but not limited to aggregate, emulsion, sand and water. The contractor will also be responsible for providing all labor, equipment, fuel, traffic control, the place of signs, resident notification, necessary sweeping, construction and application procedures required for cold mix paving.

**1.2** Bidder must be a provider currently doing business in the State of Florida with the general public, currently servicing a minimum of three (3) municipal accounts and be properly licensed as a Certified General Contractor with the State of Florida license to do business in the State of Florida. Bidder under their current business name must also have a minimum three (3) consecutive years of verifiable experience servicing municipal accounts equal in size and scope to this project placing cold mix open-graded mix.

#### **2.0 MATERIAL**

**2.1 Aggregate** – Aggregate shall be from an approved source and meet the requirements of FDOT Standard Specifications for Road and Bridge Construction, Section 901, Number 67 or 57 coarse aggregate. The aggregate will be granite, no substitutions will be allowed. The contractor shall provide the producer's certification that the aggregate to be used will meet FDOT's latest standards and specifications.

**2.2 Emulsion – CMS-2 CMS-2h (ASTM D2397 OR AASHTO M-208 Table 1)** The bituminous materials for mixing shall meet the requirements for cationic asphalt emulsion. The cationic mixing grade shall be homogenous and of high quality. The material shall be prepared from asphalt of high ductility and shall contain a rubber hydrocarbon additive from latex in addition to carefully controlled amounts of selected diluents to promote workability and minimize stripping. The contractor shall provide certification from an independent laboratory certifying emulsion meets ASTM or AASHTO specifications for CMS-2 or CMS-2h emulsion. The contractor shall manufacture its own emulsion and provide certification that it has minimum three (3) years experience manufacturing emulsion in the State of Florida.

### **3.0 MIX REQUIREMENTS**

**3.1** The mix shall contain fourteen to sixteen (14 to 16) gallons of emulsified asphalt to the ton of aggregate. No less than 95% coating will be acceptable. Extracted asphalt residue taken from the compacted mix after application of the fog seal shall be 3.0 to 4.5%.

### **4.0 EQUIPMENT**

**4.1 Bituminous Mixing Plant:** The plant shall be a portable, pugmill, synchronized, volume proportioning or weigh proportioning plant meeting the following requirements.

**4.1.1 Aggregate** bins and insulated bituminous tank of sufficient capacity, to assure a constant supply of proper proportioning of materials.

**4.1.2 Feeder** and pump synchronizing to discharge coarse and fine aggregate and bituminous material in desired proportions for mixing. The plant must be capable of mixing to obtain a uniform coating of the aggregate and thorough distribution of bituminous materials throughout the aggregate.

**4.2 Paving Equipment:** The paving machine shall be a conventional track type having a vibratory, heated screed having width adjustments that vary from 9 to 18 feet and be capable of articulating to allow for crowning of the mat.

**4.3 Compaction Equipment:** The roller shall be an eight to twelve (8 to 12) ton, double drum, steel wheeled roller containing a fully functional water system and coco mats to prevent any pick up of the fresh mixture.

**4.4 Mechanical Spreader:** The spreader will be capable of uniformly spreading fine aggregate at a rate of one to five (1 to 5) pounds per square yard across the fresh mixture.

**4.5 Additional Equipment:** Loader, sweeper, broom tractor, dump trucks and sanitary facilities for contractor's employees.

## 5.0 CONSTRUCTION

**5.1 Preparations:** The material shall be deposited on the prepared road bed. The owner agency shall grade, shape and compact the road bed to a firm base conforming to the desired elevation and width provided by these specifications.

**5.2 Spreading of material:** The mix shall not be placed when rain is occurring or the threat of rain is present immediately before placement or during the mix's curing period or on a wet base. The contractor shall use a string line to ensure straightness of all paving operations. The mix shall be deposited on the prepared road base spread in a uniform layer so as to produce the specified thickness after compaction. Thickness of laid material shall be checked frequently so as to maintain the specified thickness. A two foot (2') wedge shall be constructed at all driveways if required.

**5.2.1 Rolling:** Immediately after the mix has been spread and surface imperfections and defects have been remedied, the mix shall be rolled in the static mode. The contractor will roll uniformly with a minimum of two (2) complete passes or more, as needed, until roller marks have been eliminated. Do not over compact as this could fracture the aggregate or push the material out past the desired road width causing the mix to become thin. Should mix remain tender, then marks should be removed the next morning making one pass with the roller.

**5.2.2 Blotting:** Immediately after compacting the mix a fine aggregate or sand will be a uniformly spread using a mechanical spreader. The spread rate shall be one to two (1 to 2) lbs. per square yard to prevent tracking and allow the roadway to be opened to traffic.

## 6.0 FOG SEAL

**6.1** The contractor will apply a fog seal to the finished mix within fourteen (14) days of completion of the project. Fog seal shall be a cationic mixing type emulsion diluted 30% with water. Fog seal will be applied by means of a truck mounted liquid bituminous distributor at a rate of .14 to .20 gallons per square yard. Actual rate will be determined on jobsite. Distributor will have an accurate measuring device, asphalt pump, full circulating spray bars and a heating system to heat the diluted emulsion if necessary.

**6.2 Blotting:** Immediately following the fog seal, the area sprayed shall be blotting using the method listed in section 5.2.2.

**7.0 TRAFFIC CONTROL**

**7.1** The contractor shall furnish all necessary traffic control, barricades, signs and flag men, to ensure the safety of the traveling public and to all working personnel. Traffic shall not travel on fresh mix until rolling and blotting has been completed. All traffic control shall be in accordance with FDOT index 600 with a qualified person always in charge and on site.

**8.0 WARRANTY**

**8.1** The contractor will warranty said product for a period of two (2) years from the date the material was placed. Any time during the warranty period the Owner Agency may require the contractor to make repairs due to poor quality of materials or workmanship at no charge to the Ownership Agency.

**9.0 OTHER AGENCIES**

All respondents awarded contracts from this Request for Qualifications are given the right, upon an agreement of both parties to permit other municipalities or governmental agencies to participate in the contract under the same price, terms and conditions. It is understood that at no time will any city, municipality or other agency. Further it is understood that each agency will issue its own purchase order to the awarded respondents.

**10.0 PAYMENT**

The Open-Graded Emulsion Mix is paid by the square yard. Price shall include all materials, mix, and haul, placement of the material and traffic control. Fog seal shall be paid by the square yard and shall include the application of the fog seal and the blotter.

**BID ITEMS:**

Open-Graded Emulsion Mix	\$ _____ per Square Yard
Fog Seal	\$ _____ per Square Yard

**NORTH FLORIDA EMULSIONS, INC.**  
701 North Moody Road #15  
Palatka, Florida 32177  
(386) 328-1733 Fax (386) 328-1887  
Northflemulsions@bellsouth.net



### EXPERIENCE AND CERTIFICATION

This is to certify that North Florida Emulsion, Inc. has a minimum three years of experience in Florida in placing Thin Open Graded Emulsion Mixes as overlays 1 1/2 inches compacted on previously paved roads.

Below is a partial listing of:

### THIN OPEN GRADED EMULSION MIXES

City of Lake Mary  
911 Wallace Court  
Lake Mary, Florida 32746  
David Dovan  
407-585-1450

Volusia County  
2560 West SR 44  
Deland, Florida 32720  
Marvin Jones  
386-717-4800

St. Johns County  
2740 Industry Center Road  
St. Augustine, Florida 32084  
Press Thomkins  
904-209-1070

Clay County  
5 Esplanade Avenue  
Green Cove Springs, Florida 32043  
Dave Austin  
904-278-3633

## THIN OPEN GRADED EMULSION MIX OVERLAY

### (Cold Mix Asphalt)

#### TECHNICAL SPECIFICATIONS

#### SCOPE OF WORK

- 1.0 **Description:** The primary work specified in this section consists of constructing a cold mix open-graded emulsion overlay composed of aggregate and polymer-modified emulsified asphalt mixed into a uniformly, well coated mass. Spread on a prepared previously paved surface compacted to the lines, grades and thickness established by the owner agency.
- 1.1 The contractor will supply all materials including but not limited to aggregate, emulsion, sand and water. The contractor will also be responsible for providing all labor, equipment, fuel, traffic control, the placement of signs, resident notification, necessary sweeping, construction and application procedures required for cold mix paving. Price shall include leveling the existing pavement using the #89 granite material.
- 1.2 Bidder must be a provider currently doing business in the State of Florida with the general public, currently servicing a minimum of three (3) municipal accounts and be properly licensed as a Certified General Contractor with the State of Florida licensed to do business in the State of Florida. Bidder under their current business name must also have a minimum three (3) consecutive years of verifiable experience servicing municipal accounts equal in size and scope to this project placing cold mix open-graded mix.
- 2.0 **MATERIAL**
- 2.1 **Aggregate** – Aggregate shall be from an approved source and meet the requirements of FDOT Standard Specifications for Road and Bridge Construction, Section 901, coarse aggregate. The aggregate will be granite, no substitutions will be allowed. Contractor shall provide the producer's certificate that the aggregate to be used will meet FDOT's latest standards and specifications.

## 2.2 **Emulsion** – CMS-2 or CMS-2h (ASTM D2397 or AASHTO M-208 Table1)

The bituminous materials for mixing shall meet the requirements for cationic asphalt emulsion. The cationic mixing grade shall be homogenous and of high quality. The material shall be prepared from asphalt of high ductility and shall contain a rubber hydrocarbon additive from latex in addition to carefully controlled amounts of selected diluents to promote workability and minimize stripping. Contractor shall provide certification from an independent laboratory certifying emulsion meets ASTM and AASHTO specifications for CMS-2 or CMS-2h emulsion. Contractor shall manufacture its own emulsion and provide certification that it has a minimum three (3) years experience manufacturing emulsion in the state of Florida.

## 3.0 **MIX REQUIREMENTS**

3.1 The mix shall contain fourteen to sixteen (14-16) gallons of emulsified asphalt to the ton of aggregate. No less than 95% coating will be acceptable. Extracted asphalt residue taken from the compacted mix after the application of the fog seal shall be 3.0 to 4.5%.

## 4.0 **EQUIPMENT**

4.1 **Bituminous Mixing Plant:** Plant shall be a portable pugmill, synchronized, volume proportioning or weight proportioning plant meeting the following requirements:

4.1.1 Aggregate bins and insulated bituminous tank of sufficient capacity, to assure a constant supply of proper proportioning of materials.

4.1.2 Feeder and pump synchronized to discharge coarse and fine aggregate and bituminous material in desired proportions for mixing. Plant must be capable of mixing to obtain a uniform coating of the aggregate and thorough distribution of bituminous materials throughout the aggregate.

4.2 **Paving Equipment:** The paving machine shall be a conventional track type having a vibratory, heated screed having width adjustments that vary from 9 to 20 feet and be capable of articulating to allow for crowning of the mat.

4.3 **Compaction Equipment:** The roller shall be an eight to twelve (8-12) ton, double drum, steel wheeled roller containing a fully functional water system and coco mats to prevent any pick up of the fresh mixture.

4.4 **Mechanical Spreader:** Spreader will be capable of uniformly spreading fine aggregate at a rate of one to five (1-5) pounds per square yard across the fresh mixture.

4.5 **Additional Equipment:** Loader, sweeper, broom tractor, dump trucks and sanitary facilities for contractor's employees.

## 5.0 CONSTRUCTION

5.1 **Preparation:** The material shall be deposited on the prepared surface. Owner Agency shall properly patch the existing pavement to be overlaid conforming to the desired elevation and width provided by these specifications.

5.2 **Spreading of Material:** Mix shall not be placed when rain is occurring or the threat of rain is present immediately before placement or during the mix's curing period or on wet pavement. Contractor shall use a string line to ensure straightness of all paving operations. The mix shall be deposited on the prepared surface and spread in a uniform layer so as to produce the specified thickness after compaction. Thickness of laid material shall be checked frequently so as to maintain the specified thickness. A two foot (2') wedge shall be constructed at all driveways, if required. The mix shall be placed when the atmosphere temperature is 45 degrees Fahrenheit and rising.

5.2.1 **Rolling:** Immediately after the mix has been spread and surface imperfections and defects have been remedied, the mix shall be rolled in the static mode. Contractor will roll uniformly with a minimum of two (2) complete passes or more, as needed, until roller marks have been eliminated. Do not over compact as this could fracture the aggregate or push the material out past the desired road width, causing the mix to become thin. Should mix remain tender, then marks should be removed the next morning making one pass with the roller.

5.2.2 **Blotting:** Immediately after compacting the mix, a fine aggregate or sand will be uniformly spread using a mechanical spreader. The spread rate shall be one to two (1-2) lbs. per square yard to prevent tracking and allow the roadway to be opened to traffic.

# SECTION 3

## Chip Seal Projects in Florida & Chip Seal Specifications

**NORTH FLORIDA EMULSIONS, INC.**  
701 NORTH MOODY ROAD # 15  
PALATKA, FLORIDA 32177  
(386) 328-1733 FAX (386) 328-1887  
[NORTHFLEMULSIONS@BELLSOUTH.NET](mailto:NORTHFLEMULSIONS@BELLSOUTH.NET)



**Experience and Certification**

This is to certify that North Florida Emulsions, Inc. has a minimum three years experience in Florida in the placing of chip seals on paved and unpaved roads.

Below is a partial listing of:

**Chip Seal Projects in Florida**

St. John's County  
Engineering Department  
2740 Industry Center Road  
St. Augustine, FL 32084  
Press Thompkins  
(904)209-1070

City of Palm Bay  
120 Malabar Road SE  
Palm Bay, FL 32907  
Chad Shoultz  
Public Works Department  
(321) 952-3424

Polk County  
Construction and Testing  
Drawer PW09 P.O. Box 9005  
Bartow, FL 33831-9005  
Ed Jordon  
(863) 534-6763

Manatee County Government  
1022 26<sup>th</sup> Avenue East  
Bradenton, FL 34208  
Brian Martineau  
(941)708-7400

Orlandia Heights Neighborhood  
Improvement District  
137 South Highway 17-92  
Debary, FL 32713  
Charlie Moses  
(904) 607-5322

Town of Penny Farms  
P.O. Box 1041  
Penny Farms, FL 32084  
Martha Kohler  
(904) 529-9078

City of Haines City  
P.O. Box 1507  
Haines City, FL 33845  
Ronnie Cotton  
(803) 421-3777

La Hacienda  
3130 Monument Rd.  
St. Augustine, FL 32070  
Raymond Madeay  
904-829-8381

Baker County  
55 North Third Street  
MacClenny, Florida 32063  
Joe Cone  
904-259-3613

Putnam County  
223 Putnam County Blvd  
East Palatka, FL 32131  
Donald Jacobovitz  
386-329-0346

# CHIP SEALS / SEAL COATS / BITUMINOUS SURFACE TREATMENTS



Chip seals are economical surface treatments designed to protect and prolong the lives of pavements. Chip seals can be used to protect new pavements, to increase surface macrotexture and skid resistance and to prolong the life of a pavement which is structurally sound but is beginning to age and may have some minor surface distress. Long term pavement performance studies have shown that chip seals are one of the most cost-effective methods of pavement preservation. Polymer modified emulsions, tighter specifications on the use of single-size aggregate, inclusion of fiberglass fibers, crumb rubber additives and new application equipment have all been recently developed to improve the construction and reliability of high performance chip seals and extend their use to high traffic volume roads.

## THE PROCESS

The first step is a chip seal design done in the laboratory using the project aggregate. The emulsion should be formulated to break quickly with the chip application, and the shot rate calculated to achieve optimal embedment of the chip

in the residual asphalt. In the field, the shot rate should be adjusted for the surface condition of the existing pavement. In a single chip seal, an asphalt emulsion is sprayed on the pavement with a distributor, then immediately covered by a single layer of uniformly sized chips from a chip spreader. A double chip seal repeats the same procedure using lower emulsion and aggregate application rates, and the second aggregate is a smaller size than the first. The new surface treatment is then rolled to seat the aggregate, and broomed to remove any loose chips. Traffic should be controlled so that the new surface is not disturbed until after the final sweeping.

## SITE SELECTION

Since chip sealing does not significantly increase structural capacity, the existing pavement must be structurally sound. Any moderate severity cracks or other distresses should be sealed or repaired and the surface should be cleaned prior to the treatment. The treatment is ideal for pavements with loss of surface texture and as a preventive maintenance treatment on aging pavements in good condition with minimal surface distress.

## BENEFITS

- *Chip seals waterproof and seal small cracks and imperfections in the pavement surface.*
- *The surface treatment enriches hardened and oxidized asphalt.*
- *The treatment improves skid resistance and surface macrotexture.*
- *The seal protects the underlying pavement from oxidation, aging and traffic wear.*
- *The emulsion treatment is environmentally-friendly and safe for workers.*
- *Asphalt emulsion chip seal is one of the most cost-effective preventive maintenance techniques.*
- *High performance chip seals are the lowest cost preventive maintenance treatment designed for high volume roads.*
- *When used on the right roads, these asphalt emulsion seals are effective pavement preservation treatments to prolong pavement life and delay major maintenance or reconstruction.*

**SINGLE OR DOUBLE SURFACE  
TREATMENT FOR PAVEMENTS  
(CHIP SEAL)**

**TECHNICAL SPECIFICATIONS**

**SCOPE OF WORK**

- 1.0 DESCRIPTION:** The primary work shall consist of furnishing and applying a single or double application of bituminous surface treatment and the maintenance of traffic in accordance with these specifications and in substantial conformance with the limits established by the owner.
- 1.1 The contractor will supply all material including, but not limited to, aggregate and emulsion. The contractor will also be responsible for providing all labor, equipment, fuel, traffic control, the placement of signs, residence notification, sweeping, construction and application procedures required for surface treatments.
- 1.2 Bidder must be a provider currently doing business with the general public in the State of Florida currently servicing a minimum of three (3) municipal accounts and be properly licensed as a Certified General Contractor with the State of Florida licensed to do business in the State of Florida. Bidder under their current business name must also have a minimum three (3) consecutive years of verifiable experience servicing municipal accounts equal in size and scope to this project applying surface treatments.
- 2.0 MATERIAL:**
- 2.1 **Liquid Bituminous Material for Surface Treatment:** The contractor shall provide CRS-2h liquid bituminous material conforming to FDOT Standard Specifications for Road and Bridge, 2007, Section 916-41, except as modified herein. The bituminous material shall be polymer modified. The minimum polymer material shall be milled or blended into the asphalt cement or blended into the emulsified solution prior to the emulsification process. The minimum amount and type of polymer will be determined by the emulsion manufacturer designing the formulation of the finished emulsion.

Contractor shall manufacture its own emulsion and provide certification that it has a minimum three (3) years experience manufacturing emulsion in the State of Florida. Contractor shall certify the liquid bituminous material meets the aforementioned FDOT specifications.

- 2.2 **AGGREGATE:** The contractor shall provide crushed granite conforming to FDOT Standard Specifications for Road and Bridge, 2007, Section 901, Table 1 for #89, #78 or #7 gradation for coarse aggregates except as modified herein. The aggregate shall be washed granite obtained from a source approved by the owner. Sampling and testing of aggregate shall be the responsibility of the contractor. Copies of test results from the aggregate supplier shall be furnished to the owner prior to the start of the surface treatment.

### 3.0 APPLICATION GUIDELINES

- 3.1 **Weather and Seasonal Limitations:** The surface treatment shall not be applied to a wet pavement surface or when rain is occurring or the threat of rain is present immediately before placement. The surface treatment shall not be applied when the pavement temperature is less than 50 degrees Fahrenheit in the shade.

- 4.0 **EQUIPMENT:** The liquid bituminous material shall be applied with a truck mounted, pressure type distributor that has been calibrated within the previous twelve (12) months, for transverse and longitudinal application rate. The distributor shall be equipped, maintained and operated so that the bituminous material can be applied at controlled temperatures and rates from .035 to 1.5 gallons per square yard. The distributor shall be capable of applying bituminous material on variable widths up to sixteen (16') feet. The distributor shall uniformly apply the bituminous material to the specified rate with a maximum allowed variation of 0.015 gallons per square yard. Distributor equipment shall include tachometer, accurate volume measuring device, a calibrated tank and a thermometer for measuring the temperature of the tank's contents. Distributors shall be equipped with a heating device, asphalt pump and full circulating spray bars adjustable laterally and vertically. Distributors and transport trailers shall be equipped with a sampling valve.

- 4.1 **Aggregate Spreader:** The aggregate spreader shall be a self-propelled unit capable of uniformly spreading the aggregate at the required rate on a minimum width of six (6") inches wider than the width of the lane to be treated. The spreader shall be calibrated within the previous twelve (12) months for transverse and longitudinal application.
- 4.2 **Pneumatic Tire Rollers:** The contractor shall use eight (8) to twelve (12) ton self-propelled pneumatic tire rollers with oscillating wheels and low pressure, smooth tires. Maintain the inflation of the tires such that in no two tires the air pressure varies more than 5 psi. The rollers will be equipped with an operating water system and coco pads. A sufficient number of rollers and a sufficient number of passes shall be used to ensure cover aggregate is properly rolled.
- 4.3 **Self-propelled Rotary Power Broom:** The self-propelled rotary broom shall be designed, equipped, maintained and operated so the pavement surface can be swept clean. The broom shall have an adjustment to control the downward pressure.

## 5.0 METHOD OF CONSTRUCTION

- 5.1 **Preparation of Surface:** A self-propelled rotary broom will be used to sweep off the pavement prior to applying the surface treatment with emphasis on clean edges. Manhole covers, drop inlets, catch basins, curbs and other structures within the roadway area shall be protected against the application of the surface treatment.
- 5.2 **Application of Bituminous Material:** Liquid bituminous material shall be applied by means of a pressure type distributor in a uniform, continuous spread over the section to be treated. The distributor shall be moving forward at the proper speed when the liquid is discharged onto the pavement. If any areas are deficient, the operation shall be stopped and corrected immediately. The liquid shall not be applied more than two hundred (200') feet in advance of the aggregate spreader when the ambient air temperature is above 75 degrees or one hundred (100') feet if the air temperature is below 75 degrees.
  - 5.2.1 Single applications shall be applied at a rate of .32 -.36 gallon per square yard depending upon the surface texture of the pavement and size of the cover aggregate.

- 5.2.2 Double applications shall be applied at a rate of .28 - .32 gallon per square yard for the first application of liquid bituminous material. The rate of .3 - .35 gallon per square yard for the second application of liquid bituminous material. (Rates may also vary dependent upon the size of cover aggregate selected.)
- 5.3 **Application of Cover Aggregate:** Immediately following the application of the liquid bituminous material, cover aggregate shall be spread over the liquid material.
- 5.3.1 Single applications of aggregate shall be at a rate of 18-24 lbs. square yard.
- 5.3.2 Double applications of aggregate shall be applied at 18-24 lbs. per square yard for first application then at 22-26 lbs. per square yard for the second application.
- 5.4 **Rolling:** Immediately after the cover aggregate is spread, any deficient areas shall be covered by additional material. Pneumatic tire rolling shall begin immediately and continue until cover aggregate is completely rolled a minimum of twice within 20 minutes of the application. A double drum roller may be allowed to supplement the rolling when applying the first lift of a double chip seal.
- 5.5 **Brooming:** Excess aggregate material shall be swept from the newly treated surface with a self- propelled rotary broom within 24 hours of treatment.
- 5.5.1 When applying a double surface treatment, the first application of cover aggregate shall be lightly swept in such a manner as to not dislodge any aggregate embedded in the liquid before the second application of liquid material is applied. For double applications apply the second application of bituminous and cover aggregate materials the same day as the first application, as far as is practicable and consistent with the setting of the liquid bituminous material. When double treatment has set, then broom loose aggregate from the surface treatment prior to application of the fog seal.

5.6 **Fog Seal:** When surface treatment has set, then a fog seal is to be applied at a rate of .1 to .15 gallons per square yard to the entire surface treatment no later than two (2) days from completion. The liquid for fog seal shall be a cationic mixing type emulsion diluted forty (40%) percent with water. Fog Seal shall then be lightly sanded at a rate of plus or minus two (2) pounds per square yard by means of a mechanical spreader.

5.7 **Maintenance of Traffic:** Maintenance of traffic shall be the contractor's responsibility and shall be in accordance with FDOT Index 600 Design Standards. Contractor will determine when traffic may be permitted on the newly installed surface treatment.

6.0 **METHOD OF MEASUREMENT**

6.1 Surface treatment shall be measured by the number of square yards of liquid bituminous and cover aggregate compacted in place making no deduction for minor untreated areas such as catch basins and manholes.

7.0 **BASIS OF PAYMENT**

7.1 The unit price bid per square yard shall include surface treatment materials, all labor costs and necessary equipment to perform the work, maintenance of traffic and sweeping. The fog seal price shall include application of the fog seal and sanding.

8.0 **OTHER AGENCIES:** All respondents awarded contracts from this Request for Qualifications are given the right, upon an agreement of both parties to permit other municipalities or governmental agencies to participate in the contract under the same price, terms and conditions. It is understood that at no time will any city or municipality or other agency be obligated for placing an order for any city, municipality or other agency. Further it is understood that each agency will issue its own purchase order to the awarded respondents.

**BID ITEMS:**

Single Application	\$_____per Square Yard
Double Application	\$_____per Square Yard
Fog Seal	\$_____per Square Yard

**DOUBLE SURFACE TREATMENT  
FOR UNIMPROVED ROADS  
(CHIP SEAL)**

**TECHNICAL SPECIFICATIONS**

**1.0 SCOPE OF WORK**

- 1.1 Description:** The primary work shall consist of furnishing and applying a double application of bituminous surface treatment and the maintenance of traffic in accordance with these specifications and in substantial conformance with the limits established by the owner.
- 1.2** The contractor will supply all material including but not limited to aggregate and emulsion. The contractor will also be responsible for providing all labor, equipment, fuel, traffic control, the placement of signs, residence notification, sweeping, construction and application procedures required for surface treatments.
- 1.3** Bidder must be a provider currently doing business with the general public in the State of Florida currently servicing a minimum of three (3) municipal accounts equal in size and scope to this bid and be properly licensed as a Certified General Contractor with the State of Florida licensed to do business in the State of Florida.

**2.0 MATERIALS**

- 2.1** Liquid bituminous material for surface treatment: The contractor shall provide CRS-2h liquid bituminous material conforming to FDOT Standard Specification for Road and Bridge 2007, Section 916-4.1 except as modified herein. The bituminous material shall be polymer modified. The contractor shall manufacture its own emulsion and provide certification that it has a minimum of three (3) years experience manufacturing emulsion in the State of Florida. The contractor shall certify the liquid bituminous material meets the aforementioned FDOT specifications.
- 2.2 Aggregates:** The contractor shall provide crushed granite conforming to FDOT standard specifications for Road and Bridge, 2007, section 901, table 1 for #89, #7 or #67 gradation for coarse aggregates except as modified herein. The aggregate shall be washed granite obtained

immediately with the steel drum roller. Cover the entire surface one time with the steel drum roller. Then, roll the cover material again with the pneumatic roller. Continue rolling as long as necessary to ensure thorough keying of the cover aggregate into the liquid bituminous material. Eliminate the steel drum when rolling the second application of cover aggregate. Apply the second application of liquid and cover material the same day as the first application, as far as it is practicable and consistent with the setting of the liquid bituminous material.

**5.5 Sweeping:** After rolling of the first application of cover aggregate, lightly broom the loose aggregate in a manner not to dislodge the aggregate embedded in the liquid. Sweep loose material from road bed. Following second application again broom loose aggregate from the road bed prior to the application of the fog seal.

**5.6 Fog Seal:** When surface treatment has set, a fog seal is to be applied at a rate of .1 to .15 gallons per square yard to the entire surface treatment no later than two (2) days from completion. The liquid for fog seal shall be a cationic mixing type emulsion diluted forty (40%) percent with water. Fog seal shall then be lightly sanded at a rate of plus or minus two (2) pounds per square yard by means of a mechanical spreader.

**5.7 Maintenance of Traffic:** Maintenance of traffic shall be the contractors responsibility and shall be in accordance with FDOT index 600 design standards, the contractor will determine when traffic may be permitted on newly installed surface treatment.

**6.0 METHOD OF MEASUREMENT**

Surface treatment shall be measured by the number of square yards of liquid bituminous and cover aggregate compacted in place making no deduction for minor untreated areas such as catch basins and manholes.

**7.0 BASIS OF PAYEMENT**

The unit price bid per square yard shall include surface treatment materials, all labor costs, and necessary equipment to perform the work, maintenance of traffic and sweeping. The fog seal price shall include application of the fog seal and sanding.

**BID ITEMS:**

Double Surface Treatment	\$ _____ per Square Yard
Fog Seal	\$ _____ per Square Yard

from a source approved by the owner. Sampling and testing of aggregate shall be the responsibility of the contractor. Copies of test results from the aggregate supplier shall be furnished to the owner prior to the start of the surface treatment.

### **3.0 APPLICATION GUIDELINES**

- 3.1 Weather and Seasonal limitations:** The surface treatment shall not be applied to a wet surface or when rain is occurring or the threat of rain is present immediately before placement. The surface treatment shall not be applied when the temperature is less than 50 degrees Fahrenheit in the shade.

### **4.0 EQUIPMENT**

- 4.1 Distributor:** The liquid bituminous material shall be applied with a truck mounted, pressure distributor that has been calibrated within the previous twelve (12) months, for transverse and longitudinal application rate. The distributor shall be equipped, maintained and operated so that the bituminous material can be applied at controlled temperatures and rates from .035 to 1.5 gallons per square yard. The distributor shall be capable of applying bituminous material of variable widths up to sixteen (16) feet. The distributor shall uniformly apply the bituminous material to the specified rate with a maximum allowed variation of 0.015 gallons per square yard. Distributor equipment shall include tachometer, accurate volume measuring device, a calibrated tank and a thermometer for measuring the temperature of the tank's contents. Distributors shall be equipped with a heating device, asphalt pump and full circulating spray bars adjustable laterally and vertically. Distributors and transport trailers shall be equipped with a sampling valve.
- 4.2 Aggregate Spreader:** The aggregate spreader shall be a self-propelled unit capable of uniformly spreading the aggregate at the required rate on a minimum width of six (6") inches wider than the width of the lane to be treated. The spreader shall be calibrated within the previous twelve (12) months for transverse and longitudinal application.
- 4.3 Pneumatic Tire Rollers:** The contractor shall use eight (8) to twelve (12) ton self-propelled pneumatic tire rollers with oscillating wheels and low pressure, smooth tires. Maintain the inflation of the tires such

that in no two tires the air pressure varies more than 5 psi. The rollers will be equipped with an operating water system and coco pads. A sufficient number of rollers and a sufficient number of passes shall be used to ensure cover aggregate is properly rolled.

- 4.4 Self-Propelled Rotary Power Broom:** The self-propelled rotary broom shall be designed, equipped, maintained and operated so the pavement surface can be swept clean. The broom shall have an adjustment to control the downward pressure.

## **5.0 METHOD OF CONSTRUCTION**

- 5.1 Preparation of Surface:** The material shall be placed on a firm unyielding prepared road bed. Owner shall grade, shape and compact the road bed to a firm base leaving no depressions, holes, bumps or waves.

- 5.2 Application of bituminous material:** Liquid bituminous material shall be applied by means of a pressure type distributor in a uniform, continuous spread over the section to be treated. The distributor shall be moving forward at the proper speed when the liquid is discharged onto the pavement. If any areas are deficient the operation shall be stopped and corrected immediately. The liquid shall not be applied more than two hundred (200') feet in advance of the aggregate spreader when the ambient air temperature is above 75 degrees or one hundred (100') feet if the air temperature is below 75 degrees.

- 5.2.1** The first application of the liquid bituminous material shall be applied at a rate of .32 - .5 gallons per square yard depending on the firmness of the road bed, surface texture and the size of the aggregate in use. The second application of the liquid bituminous material shall be applied at a rate of .28 - .4 gallons per square yard depending upon the size of the first layer of aggregate that the liquid is sprayed upon and the size of the aggregate being placed over the first application of surface treatment.

- 5.3 Application of cover Aggregate:** Immediately following the spray application of the liquid bituminous material, cover aggregate shall be spread over the liquid material at a rate of 18 – 30 lbs square yard. The second application of cover aggregate shall be at a rate of 18 – 25 lbs. per square yards.

- 5.4 Rolling:** Immediately following the first application of the cover material. Roll the entire surface with a pneumatic roller, followed

# SECTION 4

## Cape Seal Projects in Florida & Cape Seal Specifications

## CAPE SEAL

### TECHNICAL SPECIFICATIONS

#### 1.0 SCOPE OF WORK

1.1 The primary work shall consist of the application of a mechanically spray applied stress relief layer covered with a minimum thirty (30) pounds of type II micro-surfacing to correct minor surface irregularities and create a greater skid resistant pavement surface.

#### 2.0 DESCRIPTION

2.1 A cape seal is a two (2) part application of materials consisting of: 1.) a spray applied surface treatment using a crushed granite aggregate bound together by a polymerized asphalt emulsion 2.) a mixture of high friction granite aggregate, polymer asphalt emulsion, mineral filler and other additives mechanically spread to create a quick setting material able to accept traffic in a short period of time.

#### 3.0 GENERAL

3.1 The contractor will be responsible for supplying all materials, equipment, traffic control, covering all metal utility and manhole covers, placement, sweeping, resident notification, construction and application procedures required for the stress relief layer and the micro-surfacing.

#### 4.0 EXPERIENCE

4.1 The Contractor under its current business name must be properly licensed as a certified general contractor with the State of Florida license. The contractor must have a minimum three (3) years experience of supplying at least three (3) municipal accounts of the size and scope of this project in the State of Florida.

#### 5.0 MATERIALS

##### 5.1 Liquid Bituminous Material (polymerized asphalt emulsion).

5.1.1 The contractor shall provide CRS-2hp asphalt emulsion conforming to FDOT Standard Specifications for Road and Bridge, 2007 edition, section 916 except as modified herein. The bituminous material shall polymer modified. The minimum polymer material shall be milled or blended into the asphalt cement or blended into the emulsified solution prior to the emulsification process. The minimum amount and type of polymer will be determined by the emulsion manufacturer designing the formulation of the finished emulsion. The contractor shall manufacture its own emulsion and provide certification that it has a minimum three (3) years experience manufacturing emulsion in the State of Florida. The contractor shall certify the liquid bituminous material meets the aforementioned FDOT specifications.

##### 5.2 AGGREGATES

5.2.1 The contractor shall provide crushed granite conforming to FDOT standard specifications for Road and Bridge, 2007, section 901, Table 1 for #89, #78 or #7 gradation for coarse aggregates except as modified herein. The aggregate shall be

washed granite obtained from a source approved by the owner. Sampling and testing of aggregate shall be the responsibility of the contractor. Copies of test results from the aggregate supplier shall be furnished to the owner prior to the start of the surface treatment.

## **6.0 APPLICATION GUIDELINES**

### **6.1 WEATHER AND SEASONAL LIMITATIONS**

**6.1.1** The surface treatment shall not be applied to wet pavement surface or when rain is occurring or the threat of rain is present immediately before placement. The surface treatment shall not be applied when the pavement temperature is less than 50 degrees Fahrenheit in the shade

## **7.0 EQUIPMENT**

### **7.1 DISTRIBUTOR**

**7.1.1** The liquid bituminous material shall be applied with a truck mounted pressure type distributor that has been calibrated within the previous twelve (12) months for transverse and longitudinal application.

### **7.3 PNEUMATIC TIRE ROLLERS**

**7.3.1** The driver shall use eight (8) to twelve (12) ton self propelled pneumatic tire rollers with oscillating wheels and low pressure, smooth tire. Maintain the inflation of the tires such that in no two tires the air pressure varies more than 5 psi. The rollers will be equipped with an operating water system and coco pads. A sufficient number of rollers and a sufficient of passes shall be used to ensure cover aggregate is properly rolled.

### **7.4 SELF PROPELLED POWER BROOM**

**7.4.1** The self propelled rotary broom shall be designed, equipped, maintained and operated so the pavement surface can be swept clean. The broom shall have an adjustment to control the downward pressure.

## **8.0 METHOD OF CONSTRUCTION**

### **8.1 PREPERATION OF SURFACE**

**8.1.1** A self propelled rotary broom will be used to sweep off the pavement prior to applying the surface treatment emphasis on clean edges. Manhole covers, drop inlets, catch basins, curb and other structures within the road way area shall be protected against the application of the surface treatment.

## **8.2 APPLICATION OF BITUMINIOUS MATERIAL**

**8.2.1** Liquid bituminous material shall be applied by means of a pressure type distributor in a uniform, continuous spread over the section to be treated. The distributor shall be moving forward at the proper speed when the liquid is discharged onto the pavement. If any areas are deficient, the operation shall be stopped and corrected immediately. The application rate shall be .32 - .36 gallons per square yard depending upon the surface texture of the pavement and size of the cover aggregate. The liquid shall not be applied more than two hundred (200) feet in advance of the aggregate spreader when the ambient air temperature is above 75 degrees.

## **8.3 APPLICATION OF COVER AGGREGATE**

**8.3.1** Immediately following the application of the liquid bituminous material, a surface moist cover aggregate shall be spread over the liquid material with the aggregate spreader at a rate of eighteen (18) to twenty four (24) lbs. square yard.

## **8.4 ROLLING**

**8.4.1** Immediately after the cover aggregate is spread, any deficient areas shall be covered by additional material. Pneumatic tire rolling shall begin immediately and continue until cover aggregate is completely rolled a minimum of twice within 20 minutes of the application. Trucks hauling cover aggregate should stagger their tire pattern, traveling and sitting on the newly covered material to assist in rolling.

## **8.5 SWEEPING**

**8.5.1** Excess aggregate material shall be swept from the newly treated surface with a self-propelled rotary broom within 24 hours of treatment.

## **9.0 SURFACE PREPARATION FOR PLACEMENT OF MICRO-SURFACING**

### **9.1 GENERAL**

**9.1.1** The stress relief layer should be allowed to age and set under traffic for at least one (1) week before placing the micro-surfacing. Before placing the micro-surfacing the surface should be swept clean of all debris and loose aggregate. All metal utility covers, manhole covers and drains shall be covered with plastic or rolled roofing paper. Covers are to be removed in the end of the work day and disposed of by the contractor.

SEE MICRO-SURFACING SPECS'S ON SECTION 4

**NORTH FLORIDA EMULSIONS, INC.**  
701 NORTH MOODY ROAD # 15  
PALATKA, FLORIDA 32177  
(386) 328-1733 FAX (386) 328-1887  
[NORTHFLEMULSIONS@BELLSOUTH.NET](mailto:NORTHFLEMULSIONS@BELLSOUTH.NET)



**Experience and Certification**

This is to certify that North Florida Emulsions, Inc. has a minimum of three years experience in Florida in the application of cape sealing.

Below is a partial listing of:

**Cape Seal Projects in Florida**

Polk County – Constuction & Testing  
Drawer PW09 PO Box 9005  
Bartow, FL 33831-9005  
Ed Jordon  
(863) 534-6763

Village of Highland Park  
1920 S. Highland Park Drive  
Lake Wales, FL 33998  
Earl Sehi  
863-676-1840

St. Johns County  
2740 Industry Center Road  
St. Augustine, FL 32084  
Press Thompkins  
904-209-0183

Hernando County  
1525 Jefferson Street  
Brooksville, FL 34601-2828  
Andy Palmer  
352-754-4062

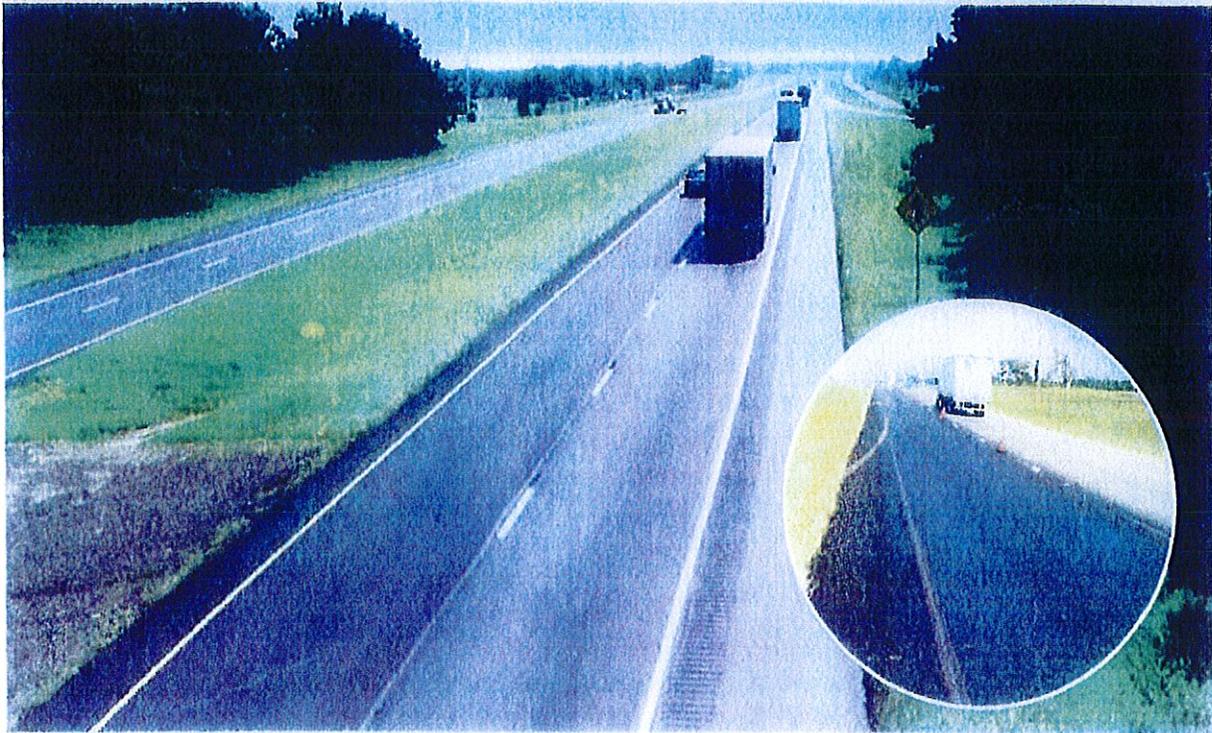
City of St. Augustine Beach  
2200 SR. A1A S.  
St. Augustine Beach, FL 32080  
Marc Chattin  
904-471-1119

Putnam County  
223 Putnam County Blvd.  
East Palatka, FL 32131  
Donald Jacobovitz  
386-329-0346

# SECTION 5

## Fog Seal Projects in Florida & Fog Seal Specifications

# FOG SEALS



A fog seal is a light application of a slow-setting asphalt emulsion diluted with water and applied by a distributor. Fog seals cover small cracks and surface voids, reduce raveling, and enrich dry pavements. A fog seal is an inexpensive way to rejuvenate and seal pavement surfaces. Fog seals are often applied on a routine schedule (typically every three to five years) to prolong pavement life.

## CONSTRUCTION PROCESS

Fog seals can be applied using conventional distributors and should be spread as evenly as possible to achieve optimum coverage and penetration of surface cracks. The rate of application depends on surface texture, dryness, and degree of cracking. The application rate of a fog seal ranges from 0.1 to 0.15 gallon per square yard (0.45-0.7 l/m<sup>2</sup>) of diluted emulsion. The emulsion and fog seals are typically diluted with water by 25 to 75%.

## SITE SELECTION

Fog seals are best suited as a short-term maintenance or corrective measure. They can be used to buy time until a permanent solution can be applied. Since there is no aggregate used in a fog seal, their life span can be quite short—less than a year—under heavy traffic. If used on an active roadway it may be necessary to close

the road for four to six hours to allow the emulsion to cure. Fog seals can also be used in a corrective mode to darken pavements, seal pavements after rumble strips have been milled or reduce aggregate loss on chip seals.

## BENEFITS

- *Fog seals are an inexpensive way to cover large surface areas.*
- *The asphalt emulsion seals the pavement from water penetration.*
- *The treatment blackens pavement, adding differentiation to pavement lanes.*
- *The asphalt renews aged asphalt pavements that have become dry and brittle.*
- *The low viscosity material flows into cracks and surface voids.*
- *Fog seals can prevent damage to pavements placed in cold weather.*
- *Fog seals can be used in conjunction with chip seals to prevent or repair raveling, snow plow damage and darken the seal.*
- *Fog seals are the least expensive pavement preservation treatment to prolong pavement life and delay major maintenance or reconstruction.*

# FOG SEAL

## 1.0 SCOPE OF WORK

**Description:** Spray and apply a known amount of emulsified asphalt to the surface of oxidized existing pavements and blot any excess asphalt remaining on the surface.

## 2.0 MATERIALS

### 2.1 Emulsified Asphalt

**2.1.1** Emulsified asphalt shall be of a cationic mixing type emulsion meeting the requirements of ASTM D2397 or AASHTO M-208 Table 1, CMS-2 or CMS-2h except as modified here-in. The emulsified asphalt shall be diluted with to 20-30% water and circulated to ensure uniformity of the particles.

### 2.2 Sand

**2.2.1** Use a dry utility or concrete sand free from debris or oversize particles.

## 3.0 EQUIPMENT

### 3.1 Bituminous Distributor

**3.1.1** The distributor shall be of the pressure type with an insulated tank, The spray bar shall be adjustable to permit various length, fully circulating and have a minimum length of 10'. The distributor shall be equipped with devices to determine and control the amount of material being applied.

### 3.2 Mechanical Sander

**3.2.1** The sander is to be truck mounted and have controls that operate from the cab of the vehicle. Sander shall have the capacity to spread material 20' wide and be capable of adjustments from 1-5 lbs. sq yds.

## 4.0 PREPERATION

### Traffic Control

**4.1.1** The contractor shall furnish all necessary traffic signs and flagmen to ensure the safety to the traveling public. Traffic shall not travel on the fresh fog seal until it is blotted.

**4.1.2** Surface to be fog sealed is to be swept of any loose aggregates, dirt, leaves and debris. Owner agency shall be responsible for sweeping.

**4.1.3** All utilities, drains and man ways are to be covered prior to application of the fog seal and removed prior to leaving project.

**6.0 FOG SEAL**

6.1 Contractor will apply a fog seal to the finished mix within fourteen (14) days of completion of the project. Fog Seal shall be of a cationic mixing type emulsion diluted 30% with water. Fog Seal will be applied by means of a truck mounted liquid bituminous distributor at a rate of .1 to .20 gallons per square yard. Actual rate will be determined on jobsite. Distributor will have an accurate measuring device, asphalt pump, full circulating spray bars and a heating system to heat the diluted emulsion if necessary.

6.2 **Blotting:** Immediately following the fog seal, the area sprayed shall be blotted using the method listed in section 5.3

**7.0 TRAFFIC CONTROL**

7.1 The contractor shall furnish all necessary traffic control barricades, signs and flagmen, to ensure the safety of the traveling public and to all working personnel. Traffic shall not travel on fresh mix until rolling and blotting has been completed. All traffic control shall be in accordance with FDOT index 600 with a qualified person always in charge and on site.

**8.0 WARRANTY**

8.1 Contractor will warranty said product for a period of one (1) year from the date the material was placed. Any time during the warranty period the Owner Agency may require the contractor to make repairs due to poor quality of materials or workmanship at no charge to the Owner Agency.

**9.0 OTHER AGENCIES**

All respondents awarded contracts from this Request for Qualifications are given the right, upon an agreement of both parties to permit other municipalities or governmental agencies to participate in the contract under the same price, terms and conditions. It is understood that at no time will any city or municipality or other agency be obligated for placing an order for any city, municipality or other agency. Further it is understood that each agency will issue its own purchase order to the awarded respondents.

**10.0 PAYMENT**

The Open-Graded Emulsion Mix shall be paid by the square yard. Price shall include all materials, mix, haul, placement of the material, traffic control, fog seal and all other incidentals.

**NORTH FLORIDA EMULSIONS, INC.**  
701 NORTH MOODY ROAD # 15  
PALATKA, FLORIDA 32177  
(386) 328-1733 FAX (386) 328-1887  
[NORTHFLEMULSIONS@BELLSOUTH.NET](mailto:NORTHFLEMULSIONS@BELLSOUTH.NET)



**Experience and Certification**

This is to certify that North Florida Emulsions, Inc. has a minimum of three years experience in Florida in the application of fog sealing.

Below is a partial listing of:

**Fog Seal Projects in Florida**

St. Johns County  
2740 Industry Center Road  
St. Augustine, FL 32084  
Press Thompkins  
904-206-0140

Volusia County  
2560 West State Rd. 44  
Deland, FL 32720  
Marvin Jones  
386- 717-4800

City of Lake Mary  
911 Wallace Court  
Lake Mary, FL 32746  
David Dovan  
407- 585-1450

Leon County  
2280 Miccosukee Rd  
Tallahassee, Florida 32308  
Jimmy Hall  
850-528-6017

SIRWCD  
15600 Jupiter Farms Road  
Jupiter, FL 33478  
Mike Dillon  
561-747-0550

## SECTION 6

# Crack Seal Projects in Florida & Crack Seal Specifications

## **NORTH FLORIDA EMULSIONS, INC.**

701 North Moody Rd # 15  
Palatka, Florida 32177  
(386) 328-1733 Fax (386) 328-1887  
[Northflemulsions@bellsouth.net](mailto:Northflemulsions@bellsouth.net)



### **Experience and Certification**

This is to certify that North Florida Emulsions, Inc is experienced in the application of crack sealing. Below is a partial listing of:

### **Crack Seal Projects in Florida**

Martin County  
2401 S.E. Monterey Rd.  
Stuart, Florida 34996  
Ken Vreeland  
772-288-5927

Sarasota County  
1001 Sarasota Center Blvd.  
Sarasota, Florida 34240  
Phuoc Hoang  
941-861-0968

Hernando County  
1525 E. Jefferson St.  
Brooksville, Florida 34601  
Andy Palmer  
352-754-4423

Deercreek Homeowners Association  
7934 McLauring Road N.  
Jacksonville, Florida 32256  
Danny Becton  
904-519-1276

# HOT APPLIED ELASTOMERIC CRACK SEALANT

## 1.0 SCOPE OF WORK

- 1.1 Crack sealing consists of furnishing all labor, equipment and materials necessary to perform all operations in connection with the cleaning, vegetation removal and sterilization, where necessary, of random cracks in bituminous concrete pavements.

## 2.0 MATERIAL

- 2.1 Crack sealant shall meet or exceed the ASTM D6690 and AASHTO M324 minimum specifications as set forth herein:

Test	Method	Specification
Cone penetration @ 77 degrees	ASTM 5329	90 dmm max
Softening point	ASTM D36	176 Degrees min
Bond -20 degrees, 50% ext., 12.7 mm sample	ASTM D5329	pass 3 cycles
Resilience @ 77 degrees	ASTM D5329	60% min
Asphalt compatibility	ASTM D5329	pass
Recommended application temperature	ASTM D5167	380-400 degrees
Maximum heating temperature	ASTM D6690	400 degrees

- 2.2 **Blotter** material to prevent tracking shall be a boiler slag, clean sand or dusting of cement.

## 3.0 EQUIPMENT

- 3.1 **Air compressor:** Air compressor shall be capable of furnishing 90 psi minimum, dry, oil free compressed air to dry and remove dirt and debris from the cracks.
- 3.2 **Melting Unit:** The unit shall be a jacketed double boiler melter. It shall be equipped with a hot circulation pump capable of maintaining a consistent temperature of the heat transfer oil. The heat transfer oil shall be circulated to the bottom and sides of the unit containing the sealant and shall have a flash point of not less than 600 degrees. The melter shall be equipped with a satisfactory means of agitating the sealant by continuous stirring with mechanically operated augers, paddles or by a circulating gear pump attached to the thermostatic control calibrated between 200 degrees and 550 degrees.

- 3.3 **Miscellaneous Tools:** A manually operated gas powered air blower or self propelled sweeper to blow debris from the roadway.

#### 4.0 PREPARATION OF CRACKS

- 4.1 **Debris and vegetation removal:** All cracks shall be blown free by means of high pressure air removing loose debris. Vegetation shall be sterilized using a propane torch. All debris and vegetation removed from the cracks shall be immediately removed from the pavement surface by means of hand brooms, air blowers or sweepers.
- 4.2 **General:** No crack sealant material shall be applied in wet cracks or where frost, snow or ice is neither present nor when the ambient temperature is below 25 degrees.

#### 5.0 MAINTENANCE OF TRAFFIC

- 5.1 **Maintenance** of traffic shall be the contractor's responsibility and shall be in accordance with FDOT index 600 design standards. The Contractor will determine when traffic may be permitted on the newly placed sealant.

#### 6.0 PREPARATION AND PLACEMENT OF SEALANT

- 6.1 Elastomeric sealant shall be heated and applied at a temperature specified by the manufacturer which is shown on the product data sheets. Minimum application temperature shall be 350 degrees.
- 6.2 Sealant shall be delivered to the pavement cracks through a high pressure feed wand system using a sealing tip, shoe or combination squeegee tip. Once the sealant is placed and has penetrated the crack it may be necessary to wipe the surface of the crack with a v- squeegee to prevent excess material on the surface of the pavement.
- 6.3 Once the crack is sealed a blotter material should be broadcast over the sealant to prevent tracking in hot weather.

## **7.0 WORKMANSHIP**

- 7.1 Workmanship shall be of the highest quality and manufacturer's certificate of material compliance shall be provided certifying conformance to the above material specifications.

## **8.0 MEASUREMENT OF PAYMENT**

- 8.1 Measurement for this work shall be by the gallon and shall be the actual number of gallons of hot applied elastomeric crack sealant applied. Payment shall include the furnishing, preparation and placing of materials including labor and equipment.

## NORTH FLORIDA EMULSIONS, INC.

701 NORTH MOODY ROAD # 15  
PALATKA, FLORIDA 32177  
(386) 328-1733 FAX (386) 328-1887  
[NORTHFLEMULSIONS@BELLSOUTH.NET](mailto:NORTHFLEMULSIONS@BELLSOUTH.NET)



### Project References

**Agency:** S.I.R.W.C.D.  
**Address:** 15600 Jupiter Farms Rd.  
Jupiter, Florida 33478  
**Contact:** Mike Dillon  
**Phone:** 561-747-0550  
**Project:** Grading, Lime Rock Base, Open Graded Cold Mix

**Agency:** Baker County  
**Address:** 55 North Third Street  
Macclenny, Florida 32063  
**Contact:** Joe Cone  
**Phone:** 904-259-3613  
**Project:** Open Graded Cold Mix, Chip Seal

**Agency:** Volusia County  
**Address:** 2560 West State Road 44  
Deland, FL 32720  
**Contact:** Marvin Jones  
**Phone:** 386- 822-6422  
**Project:** Open Graded Cold Mix on Dirt Roads, Cold Mix Overlays, Fog Seal

**Agency:** City of Lake Mary  
**Address:** 911 Wallace Court  
Lake Mary, FL 32746  
**Contact:** David Dovan  
**Phone:** 407- 585-1450  
**Project:** Open Graded Cold Mix on Dirt Roads, Cold Mix Overlays, Fog Seal,  
Micro-Surfacing

**Agency:** Leon County  
**Address:** 2280 Miccosukkee Road  
Tallahassee, FL 32308  
**Contact:** Ted Fryson  
**Phone:** 850- 487-3070  
**Project:** Open Graded Cold Mix, Fog Seal



**Agency:** Orlandia Heights Neighborhood Improvement District  
**Address:** 137 South Highway 17-92  
Debary, FL 32713  
**Contact:** Charlie Moses  
**Phone:** 904-607-5322  
**Project:** Lime Rock Base, Grading, Chip Seal

**Agency:** St. John's County  
**Address:** 2740 Industry Center Road  
Press Tompkins  
**Contact:** Howard Lawson  
**Phone:** 904- 206-0140  
**Project:** Open Graded Cold Mix on Dirt Roads, Cold Mix Overlays, Fog Seal,  
Micro-Surfacing

**Agency:** City of Palm Bay  
**Address:** 1050 Malabar Road, SW  
Palm Bay, FL 32907  
**Contact:** Chad Shoultz  
**Phone:** 321- 953-8996  
**Project:** Micro-Surfacing

**Agency:** La Hacienda  
**Address:** 3130 Monument Road  
St. Augustine, FL 32092  
**Contact:** Raymond Madeau  
**Phone:** 904- 829-8581  
**Project:** Chip Seal

**Agency:** Manatee County Government  
**Address:** 1022 26<sup>th</sup> Ave. East  
Bradenton, FL 34208  
**Contact:** Brian Martineau  
**Phone:** 941- 708-7400  
**Project:** Double Chip Seal

# SECTION 7

## Project References & Agencies with Contact Information

# SECTION 7

## Project References & Agencies with Contact Information



**Agency:** City of Haines City  
**Address:** P.O. Box 1507  
Haines City, FL 33845  
**Contact:** Ronnie Cotton  
**Phone:** 863-421-3777  
**Project:** Double Chip Seal

**Agency:** Village of Highland Park  
**Address:** 1920 S. Highland Park Drive  
Lake Wales, FL 33998  
**Contact:** Earl Sehi  
**Phone:** 863-676-1840  
**Project:** Micro-Surfacing & Cape Seal

**Agency:** Polk County-Construction & Testing  
**Address:** Drawer PW09 P.O. Box 9005  
Bartow, FL 33831-9005  
**Contact:** Ed Jordon  
**Phone:** 863- 534-6763  
**Project:** Micro-surfacing, Cape Seal, Chip Seal, Grading

**Agency:** Marsh Creek  
**Address:** Dunn & Associates, Inc  
8375 Dix Ellis Trail, Suite #102  
Jacksonville, Florida 32256  
**Contact:** Vincent Dunn  
**Phone:** 904-363-8916  
**Project:** Micro-Surfacing

**Agency:** Sarasota  
**Address:** 1001 Sarasota Center Blvd  
Sarasota, Florida 34240  
**Contact:** Phuoc Hoang  
**Phone:** 941-861-0968  
**Project:** Micro-Surfacing & Crack Sealing



**Agency:** Martin County  
**Address:** 2401 SE Monterey Road  
Stuart, Florida 34996

**Contact:** Paul Bangs  
**Phone:** 772-463-2848  
**Project:** Crack Sealing

**Agency:** Putnam County  
**Address:** 223 Putnam County Blvd.  
P.O. Box 310  
East Palatka, Florida 32131-0310

**Contact:** Donald Jacobovitz  
**Phone:** 386-329-0346  
**Project:** Grading, Open Graded Cold Mix on Dirt Roads & Cold Mix

**Agency:** Clay County  
**Address:** 5 Esplanade Avenue  
Green Cove Springs, Florida 32043

**Contact:** Jim Friendly  
**Phone:** 904-529-5282  
**Project:** Cold Mix Overlay

**Agency:** City of Debarry  
**Address:** 137 S. Charles Richard Bell Road  
Debarry, Florida 32713

**Contact:** Dan Parrot  
**Phone:** 386-668-2040  
**Project:** Cold Mix

**Agency:** Dania Beach  
**Address:** 100 West Dania Beach Blvd  
Dania Beach, Florida 33004

**Contact:** Leo Williams  
**Phone:** 954-924-3743  
**Project:** Cape Seal

**Agency:** Hernando  
**Address:** 1525 E. Jefferson Street  
Brooksville, Florida 34601-2828

**Contact:** Andy Palmer  
**Phone:** 352-754-4423  
**Project:** Chip Seal, Crack Seal, Cape Seal



# LOXAHATCHEE GROVES WATER CONTROL DISTRICT

June 4, 2012

Jeffrey King  
North Florida Emulsions, Inc.  
701 North Moody Road, #15  
Palatka, Florida 32177

**RE: LETTER OF RECOMMENDATION**

Dear Mr. King:

As District Administrator and Engineer of the Loxahatchee Groves Water Control District, I heartily recommend North Florida Emulsions, Inc. to your potential clients. I have personally worked with your Open Grade Emulsion (OGEM) road crew while they constructed over ten (10) miles of improvements on our previously unpaved roads. Their standard of excellence and level of dedication exemplifies exceptional customer service and dependability.

North Florida Emulsions, Inc. handled our project in a professional and thorough manner, and within budget.

I highly recommend North Florida Emulsions, Inc. without reservation. Working with Jeff King and his staff has been a rare professional pleasure. We will definitely continue to keep them on our preferred vendors list for many years to come.

Sincere regards,  
LOXAHATCHEE GROVES WATER CONTROL DISTRICT

Clete J. Saunier, P.E.  
District Administrator

CJS/lrb



August 9, 2012

RE: North Florida Emulsions

The Queens Harbour Yacht and Country Club Owners Association has been working with North Florida Emulsion to complete our community paving project. They have completed two phases of MicroSealing on our community streets. The Association has been very happy with their product and with the service they provided during the paving application. They have always been very conscientious of the residents and attentive to working within our schedule.

We would be pleased to recommend North Florida Emulsion to other clients as we anticipate working with them in the future.

Queens Harbour Owners Association

A handwritten signature in blue ink, appearing to read "Bill MacLeod", is written over the printed name.

Bill MacLeod  
Infrastructure Chair  
Queens Harbour Board of Directors



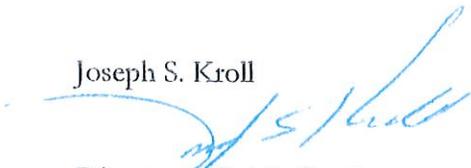
## Public Services Administrator

1749 3<sup>rd</sup> Ave South · Lake Worth, Florida 33460 · Phone: 561-586-1720 · Fax: 561-586-1690

To Whom It May Concern:

I am writing this letter to explain the relationship between the City of Lake Worth and a company we recently started to use to do roadwork with in the City limits. We are enjoying a real working relationship with North Florida Emulsions. The City has contracted with NFE to perform double chip seal projects and double course micro resurfacing projects. The City was under the gun and needed a parking area, adjacent to our Shuffle Board Courts milled and overlaid. The budget was too small for the milling and overlaying so when NFE called and stated that they had a system they could install in our parking lot for less than half of the mill and overlay project we listened closely. The project was completed on time and came in exactly on budget including the striping and car stop replacement. It was our first of many proposed projects that we hope North Florida Emulsions will complete for us in the coming year. North Florida Emulsions is a vendor to the City in good standing and will continue to be involved in all the projects they have qualified for through our new OBM system. The City expects that projects and the scope of work required to finish the project is taken very seriously by the representatives of NFE. The crews show up on time and work the project in a clean, safe and efficient manner. We have had many calls from our residents about the crews that NFE uses to complete their job. This is a small community and good news as well as bad news travels fast. The good news is that NFE considers our residents as their own customers from hanging door hangers, to answering questions to knocking on doors not to inconvenience any resident. I have inspected the work of NFE and that work was performed for the City in a very impressive manner. The City, as we all are is undergoing many changes and economic realizations that limits the money we have to award projects and this is the Company to go with if a budget restraints will keep you from completing your project. The Words I would use to describe the project NFE complete for us are Clean, Efficient, Courteous, on time and great looking completed job.

Joseph S. Kroll

  
Director of Public Services  
City of Lake Worth

AECOM  
3550 SW Corporate Parkway, Palm City, FL 34990 USA  
T 772.286.3883 F 772.286.3925 www.aecom.com

Ms. Karen C. Handel  
Secretary of State  
237 Coliseum Drive  
Macon, Georgia 31217-3858

**Subject: Letter of Recommendation for Construction on  
South Indian River Water Control District  
Fourteenth Plan of Improvements**

November 18, 2008

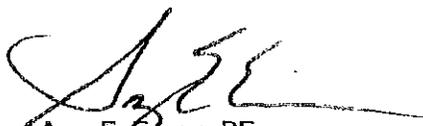
Dear Ms. Handel,

On November 9, 2007, North Florida Emulsions, Inc. finalized construction of South Indian River Water Control District's Fourteenth Plan of Improvements in Jupiter, Florida. This project consisted of the construction of approximately 13 miles of roadway improvements with the application of cold mix (open-graded emulsion mix). This project's final construction cost was \$2,617,012 and was completed in 3 months.

During the course of the project, North Florida Emulsions reasonably demonstrated the abilities, skill, and knowledge of general contracting. They were conscience of the quality of the product on the roadway surface and demonstrated good communication with the landowners. Based upon the work completed on this project, I recommend that the state grant a license to conduct general contracting to the applicant, pursuant to the successful completion any other application requirements.

Should you have any questions or need any additional information as you review the applicant's information, please let me know.

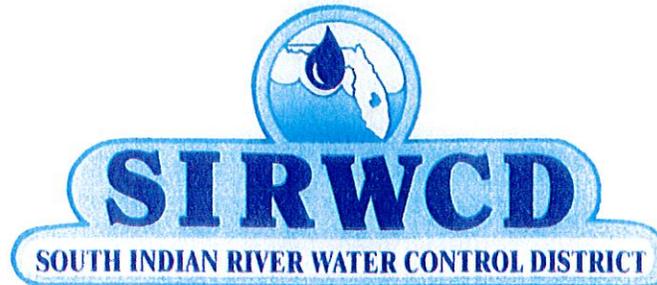
Sincerely



Amy E. Mason, PE  
Client Service Manager  
Boyle AECOM  
3550 SW Corporate Parkway  
Palm City, Florida 34990  
Florida PE No. 59936  
Georgia PE No. 27422

A Florida 298  
Special District

State of Florida  
Jupiter, Florida



*Over 85 Years of Service*

September 15, 2008

To Whom It May Concern:

North Florida Emulsions, Inc. installed approximately thirteen miles of OGEM paving on the South Indian River Water Control District's road surfaces. Their work and product were both outstanding and we gladly share our satisfaction with anyone searching for a quality contractor.

We look forward to using their services again in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gale M. English', is written over the typed name and title. The signature is fluid and cursive.

Gale M. English  
General Manager



330 West Church Street  
P.O. Box 9005  
Drawer PW02  
Bartow, FL 33831-9005  
Phone: (863) 534-6700  
Fax: (863) 534-6721

**Engineering Division**

*Board of County Commissioners*

June 30, 2008

To whom it may concern:

North Florida Emulsions, Inc (NFEI) has successfully completed several projects for the Polk County Board of County Commissioners. Our Pavement Management Program includes multiple paving strategies and NFEI was able to effectively meet our needs in several areas.

We used NFEI for Chip Seal Stabilization of unpaved roads, Cape Seal within subdivisions, and micro-surface within subdivisions. In every case, NFEI's performance met our needs in a timely and effective manner.

Our primary contacts were Brian King and Ed Hamlin. Brian and Ed were always available and strove for excellence on every project.

Please feel free to contact me with any additional questions regarding our experience with NFEI.

Ed Jordon  
Pavement Management Coordinator  
863-534-6763



June 19, 2007

To Whom It May Concern:

Recently North Florida Emulsions, Inc. provided Micro-Surfacing as part of the City of Palm Bay's Road Program. We have been pleased with both the quality of the product and with the professionalism demonstrated by North Florida Emulsions, Inc. The Micro-Surfacing method utilized by North Florida Emulsions enables citizens to drive on the road surface within the hour which is a great convenience to those we serve.

We have been pleased with our experience in dealing with North Florida Emulsions, Inc. and with the resulting improvements to our roads.

Sincerely,

Chad Shoultz  
Assistant Public Works Director

CS/mp



January 23, 2006

RE: Letter of Recommendation

To Whom It May Concern:

North Florida Emulsions, Inc. has completed 61,600 square yards of Double Micro-Surfacing for the City of Palm Coast, Fl. in an efficient and professional manner. The job was well organized and completed on time and in budget. The attention to detail by every member of the crew resulted in a project that met and exceeded expectations. We anticipate future requirements will be met in the same professional manner and look forward to future project opportunities with North Florida Emulsions, Inc.

Please feel free to contact the undersigned if any additional information is desired.

Sincerely,

A handwritten signature in black ink, appearing to read "JB", is written over a horizontal line.

James Bontempo, Street Superintendent

1 Wellfield Grade - Palm Coast, Florida 32137 - Office (386) 986-2332 - Fax (386) 446-6758



Public Works Department  
Road and Bridge Division

FRANK T. BRUND, JR.  
COUNTY CHAIR

DWIGHT D. LEWIS  
DISTRICT 1

ART GILES  
DISTRICT 2

JACK H. HAYMAN, SR.  
DISTRICT 3

CARL G. PERSIS  
DISTRICT 4

BILL LONG  
DISTRICT 5

JOIE ALEXANDER  
AT LARGE

CYNTHIA A. COTO  
COUNTY MANAGER

Date 5/12/06

Volusia County Road & Bridge  
2560 West State Rd. 44  
Deland, Fl. 32720

To whom it may concern

North Florida Emulsion demonstrated their cold mix paving to VCR&B this year (2006). As a result we now have a contract with them to pave addition miles. NFE with their expertise have shown us that their product and word is that of high quality and professionalism. They show great pride in the control and quality of their product and paving, they are a team of people who really cares of the product they produce.

As of to date they have paved approximately four miles. I have been very pleased and impressed on what I have witnessed. It is my intention to further our business partnership with NFE.

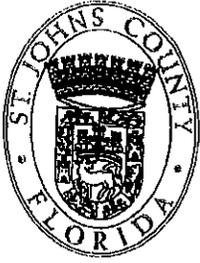
Please feel free to call me with any questions 386-822-6422

SINCERELY,

David Millard  
Road & Bridge Operations

2560 West State Road 44      Deland, Florida 32720  
Tel: (386) 822-6422      Fax: (386) 822-6496

[www.volusia.org/publicworks/road.htm](http://www.volusia.org/publicworks/road.htm)



ST. JOHNS COUNTY, FLORIDA  
Board of County Commissioners

Engineering Department

2740 Industry Center Road ~ Saint Augustine, FL 32084  
904-823-2414 ~ fax: 904-823-2394

December 5, 2005

Greg Caldwell  
Project Coordinator II  
2740 Industry Center Road  
St. Augustine, Florida 32084

RE: North Florida Emulsions

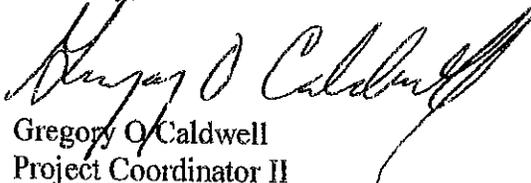
To whom it may concern,

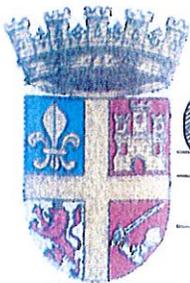
It is a genuine pleasure and honor for me to recommend North Florida Emulsions. North Florida Emulsions began work for St. Johns County in fiscal year 2005 as the prime contractor for the Dirt Road Improvement Program. The Dirt Road Improvement Program is one of the most successful programs the Engineering Division has undertaken. North Florida Emulsions has to be identified as a big contributor to its success. They have shown true professionalism in their organization and the commitment to excellence.

North Florida Emulsion demonstrated from early in their tenure working for St. Johns County that they understood what business is all about. They kept a sharp eye on the bottom line, but realized too that customer satisfaction is what makes or breaks your business. North Florida Emulsions will be very successful in their future ventures, because of their personnel, leadership and product.

In closing, let me say I have no hesitation in recommending North Florida Emulsion, I feel confident they will be an asset to your team or organization. If you have any questions, please feel free to call me at (904) 209-0132

Sincerely,

  
Gregory O. Caldwell  
Project Coordinator II



# City of St. Augustine



St. Augustine, Florida

Public Works

May 13, 2005

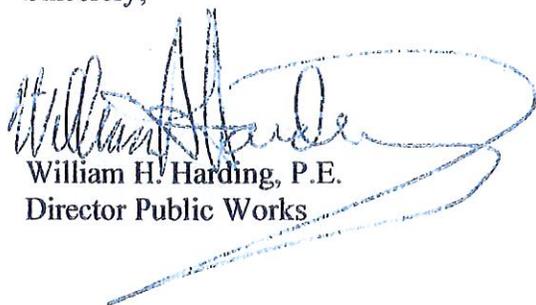
RE: Letter of Recommendation

To whom it may concern:

North Florida Emulsions, Inc. has completed over 15000 sq. yds. Of chip and seal for the City of St. Augustine, FL in an efficient and professional manner. The jobs were well organized and completed on time and in budget. The attention to detail by every member of the crew resulted in a project that met and exceeded expectations. We anticipate future requirements will be met in the same professional manner and look forward to future project opportunities with North Florida Emulsions, Inc.

Please feel free to contact the undersigned if any additional information is desired.

Sincerely,



William H. Harding, P.E.  
Director Public Works

**TOWN OF PENNEY FARMS**  
**P. O. Box 1041**  
**PENNEY FARMS, FLORIDA 32079**

**Tel: (904) 529-9078**

**Email address: [pennyfrms@aol.com](mailto:pennyfrms@aol.com)**

**Fax: (904) 284-4405**

May 13, 2005

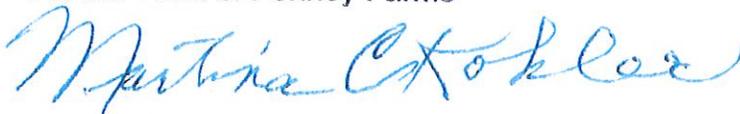
To Whom It May Concern:

During the month of February the Town of Penney Farms met with the representatives of North Florida Emulsions, Inc. From this meeting to the job completion was a total of no more than three weeks. Our project was small, but there was a quick and positive response to our need.

We found this company to do more than what was contracted to make the end project even better than we had anticipated.

Cost, time and execution of this project is highly commendable.

For the Town of Penney Farms



Martina C. Kohler  
Town Manager





**Item 9 d.**

**ULDC**



TOWN OF LOXAHATCHEE GROVES  
OFFICE OF THE TOWN MANAGER  
AGENDA REPORT

Revised November 26, 2013

**TO:** Mayor and Town Council  
**FROM:** Mark A. Kutney, Town Manager, AICP, ICMA-CM  
**DATE:** October 31, 2013  
**SUBJECT:** Town Management Company Work Authorizations

## I. BACKGROUND/HISTORY

The Town Council has approved four (4) work authorizations with the Town Management Company. An amendment to address hay sales was approved on June 26, 2012; an amendment to the CIE Element and related elements to the Comprehensive Plan was approved on July 31, 2012; an amendment to the Comprehensive Plan regarding policies and treatment for development along Okeechobee and Southern Boulevards was approved on August 21, 2012, and Staff support to the newly created Unified Land Development Committee was approved on November 20, 2012. The CIE Element amendment is scheduled for transmittal hearing to the State of Florida on November 5, 2013 and the historical legacy amendment the subsequent and evolving amendment relative to hay sales will be returning to Town Council at the December 3, 2013, meeting. ULDC activities will be concluded after the Committee sunsets in December and the final report is issued to Town Council. The Comprehensive Plan amendments relative to Okeechobee/Southern will be coming to Town Council in early 2014.

At the November 5, 2013 Town Council Meeting, Councilman Liang amended an original motion to authorize \$1,000.00 for the CIE and \$8,000.00 for the completion of moratorium amendments on Okeechobee/Southern Boulevards. The motion passed 4/0. Relative to the ULDC portion of the agenda, Town Council elected to bring this matter back for further discussion on the December 3, 2013 Meeting.

## II. DISCUSSION

At this point in time and due to changes of direction in all of the work authorizations, some fiscal adjustments must be made to these efforts. No financial adjustments are necessary to Work

Authorization 12-01, Hay Sales, in spite of the fact that late in the project, the amendment was modified to change course and prepare as a historical legacy amendment. Work Authorization 12 -02 CIE will need an additional \$1,000.00 dollars to complete the transmittal/adoption phase of the ordinance. The additional funds are necessary due to the P&Z Board (sitting as LPA) holding an extra meeting and Town Management Staff had to take the amendment to the Roadway Equestrian Trials and Greenways Committee (RETGAC) which requested the ability to review the document necessitating an extra meeting and staff time.

Work Authorization 12-03 Okeechobee/Southern Moratorium Amendments to the Comprehensive Plan needs an infusion of \$8,000 to finish the amendments. This will cover the necessary processing and modifications as a result of the additional workshop and change of directions related to Southern Boulevard and also to assess the effects and impacts that Minto West may have on planning efforts along Okeechobee. Finally, \$5,370 is needed to complete the ULDC Committee activities which include three meetings, agenda and minutes' preparation and the final report to Town Council of the Committee's recommendations. The reason for additional funds is due to incorporating the Special Exceptions work item (\$2,700 in charges) under this work task (previously unplanned for and set for Town Council review on November 5, 2013) and numerous discussions related to Agriculture that have consumed the Committee's time and expanded a number of meetings. The requested funds are based upon hourly projections of the time needed to finish the tasks.

Council discussion indicated possibly extending the existence of the ULDC 90 days to March 14, 2013, and the thought was expressed that Town Council should discuss the final issues that they would want the Committee to address. If Council desires to extend the life of the committee three additional months, Town Management estimates the additional costs to be \$4,585 for Staff to service the Committee. This increases the total request for this work authorization to \$9,955 (\$5,370 + \$4,585).

### **III. FISCAL IMPACT**

The total additional funding needed to finish the **ULDC Portion is \$9,955.**

### **IV. ATTACHMENTS**

Work Authorizations 12-01- 12-04

### **V. REQUESTED ACTION**

Town Management recommends Town Council approval of the additional \$14,370 to complete the work authorizations.

Should the Town Council decide to extend the ULDC Committee for 3 additional months plus the month of December the total Cost is \$9,955. If this option is selected, Town Management would recommend keeping the ULDC Committee on hiatus until January and extend the committee until April due to the holidays and inability to hold two meetings in December. If the Council chooses to extend the Committee for one additional month the expense is \$ 5,370 as previously indicated above.



**Item 10 a.**

**Amendment to Keshavarz Contract**

**AMENDMENT TO AGREEMENT FOR  
PROFESSIONAL ENGINEERING SERVICES  
FOR THE TOWN OF LOXAHATCHEE GROVES**

This **AMENDMENT** (“Amendment”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013 (the “Effective Date”), by and between:

**TOWN OF LOXAHATCHEE GROVES**, a municipal corporation existing under the laws of the state of Florida, hereafter referred to as “TOWN,”

and

**KESHAVARZ & ASSOCIATES, INC.**, a Florida corporation, with an address of 711 North Dixie Highway, Suite 201, West Palm Beach, Florida 33401, hereafter referred to as “ENGINEER,” (with the TOWN and ENGINEER each referred to as a “Party” and collectively as the “Parties”).

**WITNESSETH:**

**WHEREAS**, the TOWN is a municipal corporation of the State of Florida, the powers of which are defined in the TOWN’s Charter and State law; and

**WHEREAS**, the TOWN has a variety of operational and infrastructural needs which involve the assistance of licensed professionals; and

**WHEREAS**, the TOWN has already contracted with ENGINEER for a particular set of services, as described in the Agreement for Professional Engineering Services for the Town of Loxahatchee Groves (hereinafter “Agreement”), which is incorporated by reference hereto, and more specifically in Exhibit “C” to the Agreement; and

**WHEREAS**, the TOWN has identified certain instances which may require the engagement of ENGINEER for an additional set of services, to be defined herein; and

**WHEREAS**, the Agreement provides that the ENGINEER may provide additional services not included in Exhibit “C” of the Agreement to the TOWN upon the execution of a written Amendment to the Agreement, as provided in Section 10.8 of the Agreement.

**WHEREAS**, TOWN has determined that ENGINEER has the experience, expertise, equipment, and materials to provide such additional services as described herein, and is capable of providing the necessary materials and manpower to address the aforementioned issues of the TOWN, subject to the agreement of the Parties on criteria for such services, and the TOWN’s agreement to pay for such services and supplies; and

**WHEREAS**, ENGINEER has stated that it has staff currently employed and available and who are certified to perform such services; and

**WHEREAS**, ENGINEER agrees to commit the necessary personnel to perform the services at the corresponding rates as may be reviewed; and

**WHEREAS**, ENGINEER is willing to provide said services to the City pursuant to the terms and conditions set forth herein; and

**WHEREAS**, the TOWN Council and the ENGINEER have determined that this Amendment is in the best interest of the health, safety, and welfare of the residents within the TOWN.

**NOW, THEREFORE, IN CONSIDERATION** of the mutual terms, conditions, promises, covenants, and payments hereafter set forth, the TOWN and ENGINEER agree as follows:

### **ARTICLE 1 - RECITALS**

1.1 The foregoing recitations are true and correct and are hereby incorporated herein by reference. All exhibits to this Agreement are hereby deemed a part hereof.

### **ARTICLE 2 – ADDITIONAL PROFESSIONAL ENGINEERING SERVICES**

2.1 In addition to the Professional Engineering Services described and outlined in the Agreement and more particularly in Exhibit “C” of the Agreement, the TOWN may engage ENGINEER for Traffic Engineering Services if the TRAFFIC ENGINEER, as defined in the Agreement for Professional Traffic Engineering Services for the Town of Loxahatchee Groves (hereinafter “Traffic Engineering Agreement”) is: (a) participating in a project the TOWN opposes or is reviewing which presents a conflict of interest, or (b) if the TRAFFIC ENGINEER is engaged in any other activity which presents a conflict of interest as defined in Article 3 of the Traffic Engineering Agreement. Under such conditions as outlined in this Article 2.1, the TOWN may engage ENGINEER to perform certain traffic engineering services, including but not limited to the duties in Exhibit “C” of the Traffic Engineering Agreement. The duties listed in Exhibit “C” of the Traffic Engineering Agreement are attached hereto as **Exhibit “A”** to this Amendment.

2.2 If the scope of services requested by TOWN to ENGINEER as defined in Article 2.1 of this Amendment requires ENGINEER to subcontract certain services to other vendors, ENGINEER is permitted to subcontract such services, provided the Town Manager or designee approves of the subcontractor, and provided that ENGINEER’s subcontractors are bound by all of the Engineering Agreement’s applicable provisions, including but not limited to Article 8 and Article 10.22 involving subcontractors.

2.3 In addition to the Professional Engineering Services described and outlined in Exhibit “C” of the Agreement, the TOWN may engage ENGINEER for Surveying Services if the SURVEYOR, as defined in the Agreement for Professional Land Surveying Services for the Town of Loxahatchee Groves (hereinafter “Surveying Agreement”): (a) is participating in a project the TOWN opposes or is reviewing which presents a conflict of interest, or (b) if the

SURVEYOR is engaged in any other activity which presents a conflict of interest as defined in Article 3 of the Surveying Agreement, or (c) if the SURVEYOR is unable to complete services by the time or in the manner requested by the TOWN. Under such conditions as noted in this Article 2.3, the TOWN may engage ENGINEER to perform certain professional surveying services, including but not limited to the duties in Exhibit "C" of the Surveying Agreement. The duties listed in Exhibit "C" of the Surveying Agreement are attached hereto as **Exhibit "B"** to this Agreement.

2.4 All additional services performed by ENGINEER in furtherance of this Amendment shall be subject to all of the provisions of the Agreement, and more specifically the method of issuance of all work by the TOWN to ENGINEER and payment for additional services by ENGINEER shall be governed by Article 5 of the Agreement.

2.5 ENGINEER shall perform any requested Traffic Engineering Services and Surveying Services at the rates outlined in its Response to the RFQ, attached hereto as **Exhibit "C"** to this Amendment. All subcontractors are bound by the same rates unless otherwise noted by a separate writing authorized by the Town Manager or designee.

### **ARTICLE 3 – EFFECT OF AMENDMENT; CONFLICTS**

3.1 All terms and conditions of the Agreement not in conflict with this Amendment shall remain in full force and effect. In the event of any conflict between this Amendment and the Agreement, the terms and conditions of this Amendment shall prevail.

(REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)

**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Amendment between TOWN and ENGINEER on the respective dates under each signature: TOWN, signing by and through its \_\_\_\_\_, authorized to execute same by Council action on the \_\_\_\_ day of \_\_\_\_\_, 2013 and the ENGINEER, signing by and through its \_\_\_\_\_, authorized to execute same on the \_\_\_\_ day of \_\_\_\_\_, 2013.

Executed by **TOWN** this \_\_\_\_\_ day of \_\_\_\_\_, 2013

**TOWN OF LOXAHATCHEE GROVES,**  
a Florida Municipal Corporation

ATTEST:

By \_\_\_\_\_  
David Browning  
Mayor

\_\_\_\_\_  
Janet K. Whipple, MMC  
Town Clerk

[TOWN SEAL]

APPROVED AS TO FORM:

By \_\_\_\_\_  
Michael D. Cirullo, Jr.  
Town Attorney

Executed by **ENGINEER** this \_\_\_\_\_ day of \_\_\_\_\_, 2013

**KESHAVARZ & ASSOCIATES, INC.**

ATTEST:

BY: \_\_\_\_\_

As \_\_\_\_\_,

(CORPORATE SEAL)

STATE OF FLORIDA                    )  
  ) SS

COUNTY OF PALM BEACH )

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared \_\_\_\_\_ of Keshavarz & Associates, Inc. who is personally known to me or has produced \_\_\_\_\_ as identification, and acknowledged execution of the foregoing Amendment as the proper official of Keshavarz & Associates, Inc. of for the use and purposes mentioned in it and that the instrument is the act and deed of the Corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
NOTARY PUBLIC

**My Commission Expires:**

**EXHIBIT “A”**  
Scope of Traffic Engineering Services

Provide general consultation, traffic engineering design, review and preparation of traffic studies, and other related traffic engineering services for the Town of Loxahatchee Groves. The scope of the aforementioned services provided by TRAFFIC ENGINEER to TOWN may include, but are not limited to, the following:

- 1) Arterial analysis;
- 2) Traffic signal warrant analysis;
- 3) Traffic signal design;
- 4) Traffic calming studies and design;
- 5) Intersection design, sidewalk, turn lanes, street light studies, and design;
- 6) Ingress/egress; number, location and geometry;
- 7) Access layout and geometric design;
- 8) Number and layout of parking stall/aisles;
- 9) Vehicular storage at ingress/egress locations;
- 10) Loading Zones;
- 11) Sight lines/visibility triangles;
- 12) On/off street parking impacts;
- 13) Pedestrian/vehicular conflicts;
- 14) Attendance at any TOWN meetings involving such projects of TRAFFIC ENGINEER;
- 15) Assistance with review of any development petitions and traffic impact studies to ensure compliance with local and state laws;
- 16) Coordination with TOWN to resolve any issues involving interpretation and implementation of any traffic standards, if applicable;
- 17) Providing specialized studies and written reports on traffic issues when warranted;
- 18) Providing input relative to zoning amendments as they involve traffic and transportation planning; and

Other tasks as needed.

## **EXHIBIT “B”**

### **Scope of Professional Surveying Services**

Provide land surveying, do layout work, produce “as-built” drawings, do public records research, prepare easements, and other related land surveying services for the Town of Loxahatchee Groves. The scope of the aforementioned services provided by SURVEYOR to TOWN may include, but are not limited to, the following:

- 1) Topographic surveys;
- 2) Boundary surveys;
- 3) As-built surveys;
- 4) Construction layout;
- 5) Control surveys;
- 6) Hydrographic surveys;
- 7) Land platting;
- 8) Mean high water line surveys;
- 9) Quantity surveys;
- 10) Special purpose or miscellaneous surveys; and
- 11) Any other such surveying services as may be warranted by TOWN.

All surveying and/or any mapping work and services shall be performed by duly licensed Florida surveyors and mappers, as applicable and as required by law. Staff members shall be licensed to the extent required by law and certified to conform to the level of tasks being performed by the individual.

**EXHIBIT "C"**  
**ENGINEER's Rates as Set Forth in Response to RFQ**



**KESHAVARZ & ASSOCIATES**  
 Civil Engineers – Land Surveyors

**TIME & EXPENSE RATES**  
**Town of Loxahatchee Groves**  
 Effective June 2013

Principal (P.E.)	\$215.00 per hour
Senior Project Manager (P.E.)	160.00 per hour
Project Manager (P.E.)	140.00 per hour
Project Engineer (P.E.)	115.00 per hour
Project Engineer (E.I.T.)	95.00 per hour
Construction Project Manager	120.00 per hour
Field Engineering Representative/Liaison	85.00 per hour
Principal Surveyor (P.S.M.)	150.00 per hour
Professional Surveyor (P.S.M.)	125.00 per hour
Project Surveyor (S.I.T.)	90.00 per hour
Survey Crew	125.00 per hour
Global Positioning System (GPS) Receiver	25.00 per hour
Total Station with Data Collection	10.00 per hour
Senior Engineering Technician/CADD	85.00 per hour
Senior Surveying Technician/CADD	85.00 per hour
Engineering Technician/CADD Technician	80.00 per hour
Regulatory Liaison	80.00 per hour
Administrator	70.00 per hour
Bond Copies/Black line/Blueprints	2.50 each
Plot Media	10.00 each
CAD Drawing Files/Digital Transmission	50.00 each
Mileage	0.50 per mile
Deliveries	40.00 each
Other Supplies	Cost plus 20%



TOWN OF LOXAHATCHEE GROVES  
OFFICE OF THE TOWN MANAGER  
AGENDA REPORT

**TO:** Mayor and Town Council

**FROM:** Mark A. Kutney, Town Manager, AICP, ICMA-CM

**DATE:** November 26, 2013

**SUBJECT:** Amendment to the General Engineering Services Contract

## **I. BACKGROUND/HISTORY**

During 2013, the Town Management Staff prepared and issued RFQ No. 2013-001 for professional engineering services that included: General Town Engineering Services; Traffic Engineering Services and Land Surveying Services. After a long process that followed the “Consultants’ Competitive Negotiation Act” pursuant to Florida Statute 287.055, on July 16, 2013, the Town Council approved Keshavarz & Associates, Inc., for General Engineering Services; Simmons and White, Inc., for Traffic Engineering Services; and A & B Engineering, Inc., for Land Surveying. At the time of RFQ solicitation, the Town Management Company had considered selecting one firm as the General Town Engineer and two firms on continuing services contracts for the other disciplines. However, due to timing issues and concern about the number of contracts to be awarded, the Management Company elected to recommend only one firm for all three services

## **II. DISCUSSION**

The Town Management Company has been working with all three firms since the agreements were entered into on July 24, 2013. While there are no identified problems with the services provided at this point in time, both A&B Engineering and Simmons and White have private clients within the Town that could generate a potential conflict. Also, as indicated above, the original thought was to have two firms for the aforementioned services in part to address a conflict issue and other issues including timing etc. Since Keshavarz was also shortlisted for surveying services and finished second to A & B Engineering, an amendment to the General Engineering Services Agreement has been deemed necessary by the Management Company. The

Town envisions needed surveying due to a number of projects identified in the Capital Improvements Program (CIP) and CIP Budget as well as those yet to be determined. This amendment would provide the Town with the added flexibility to have a second vendor in the situations addressed above.

Relative to traffic engineering, Keshavarz did not propose for this service but can provide such in concert with sections 2.1 and 2.2 via the use of a subcontractor provided the Town Manager or designee approves the subcontractor and the subcontractor is bound by all other applicable provisions of the General Services Engineering Agreement. The Management Company believes the amendment in question is in the best interest of the Town relative to efficiency and effectiveness.

### **III. FISCAL IMPACT**

No identified fiscal impact at this time

### **IV. ATTACHMENTS**

Amendment to Agreement for Professional Engineering Services for the Town of Loxahatchee Groves

### **V. REQUESTED ACTION**

Motion by Town Council to approve the Amendment to Agreement for Professional Engineering Services and authorize the Mayor to execute the same



**Item 10 b.**

**Sirdar Trucking Company Contract Invoices**

**TOWN OF LOXAHATCHEE GROVES**

**INTER-OFFICE CORRESPONDENCE**

**MEMORANDUM NO. 2013-30**

**TO:** Mayor David Browning  
Members of the Town Council

**CC:** Mark Kutney, Town Manager  
Janet K. Whipple, Town Clerk

**FROM:** Michael D. Cirullo, Jr., Town Attorney *MDC*

**RE:** Town of Loxahatchee Groves (“Town”) / Resolution of Sirdar Trucking Invoice Disagreement

**DATE:** December 3, 2013

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As the Town Council has been made aware, Town Management and the Town Attorney have been working to resolve an invoicing issue with Sirdar Trucking, Inc. Sirdar Trucking submitted invoices to the Town for mowing and trimming services, as well as, removal and disposal of vegetative debris, in the amount of \$48,430.00. Town Management did not approve the payment since it did not believe there was sufficient documentation to support the charges. At issue is the portion of the invoice seeking payment for the removal and disposal of 70 loads of vegetative waste, each at what Sirdar Trucking represented was the maximum capacity of the trailer of 16 cubic yards.

Town Manager conducted a review of the invoices and backup provided by Sirdar Trucking, and engaged the Town Engineer to assist in the review. The Town engineer concluded that the maximum capacity of Sirdar Trucking’s trailer, fully compacted, is 13.77 cubic yards. At the same time, the Town Engineer applied FEMA calculations that reduce capacity for trailers that are hand loaded and recommended a reduction of capacity be used to calculate the payment to Sirdar Trucking. A copy of the engineer report is included in the agenda materials. Based upon its review, and considering the report from the Town Engineer, Town Management forwarded payment to Sirdar Trucking on September 13, 2013, in the amount of \$26,546.66.

Sirdar Trucking did not accept the payment and a meeting was conducted on October 16, 2013, between the Town and Sirdar Trucking to resolve the matter. I attended this meeting, as did the Town engineer, and Sirdar Trucking was represented by counsel as well. Subsequent to the meeting, the parties exchanged correspondence that included proposals to resolve the matter. On October 23, 2013, counsel for Sirdar Trucking forwarded correspondence requesting payment in the amount of \$43,122.00. Sirdar Trucking did not produce any additional information to support its claim that each trailer was loaded to the maximum mechanically compacted volume.

In an effort to resolve the case, the Town Attorney, after consulting with Town Management, sent an offer to Sirdar Trucking's counsel on November 14, 2013. A copy is included in the agenda materials. The offer was in two parts:

1. Recommend to the Town Council a payment to Sirdar Trucking in the amount of \$31,103.60, calculated as set forth in the letter; and,
2. The parties would agree to an Addendum to the Agreement to address future work, where the volume would be calculated using FEMA guidelines and verified by Sirdar Trucking.

Sirdar Trucking was requested to provide a response by Tuesday, November 26, 2013, so that the matter could be addressed by the Town Council at its December 3, 2013, meeting.

On November 22, 2013, Sirdar Trucking's counsel forwarded correspondence agreeing to the payment set forth in the Town Attorney's November 14, 2013, correspondence of \$31,103.60 to resolve the outstanding invoicing matter. However, Sirdar Trucking will not agree to the proposed Addendum to the Agreement and has requested the agreement be terminated. The agreement permits the Town Council to terminate for convenience upon the adoption of a resolution by the Town Council.

Based upon the current status of the discussions between the Town and Sirdar Trucking, it is recommended that the Town Council:

1. Adopt a Motion approving payment of \$31,103.60 for all outstanding invoices to Sirdar Trucking;
2. Adopt a Motion directing that a Resolution for Termination for Convenience of the Sirdar Trucking Agreement be presented to the Town Council at its January 14, 2013, meeting; and,
3. Provide direction to Town Management on how to proceed with the mowing and vegetative services on Town Roads.

MDC:clb

Enclosure



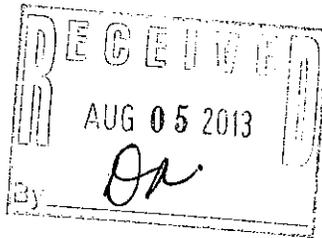
**SIRDAR TRUCKING, INC**  
 13332 71ST PL N WEST PALM BEACH FL 33412  
 PHONE# 561-723-6820 OR 561-714- 2229  
 FAX# 561-791-3964  
 email: samantha.sirdar@yahoo.com

# Invoice

Date: 07/29/2013  
 Invoice No.: 10089  
 Due Date: 07/29/2013  
 Salesperson: SAMANTHA SIRDAR  
 Customer PO No.: 13-0702

**Bill To:**  
**TOWN OF LOXAHATCHEE GROVES**  
 14579 Southern Boulevard, Suite 2 Loxahatchee  
 Groves, Florida 33470

Qty	Description	Unit Price	Total
	7-17-13 TO 7-23-13		
50	HOUR MOWING	\$45.00	\$2,250.00
192	CYD VEGETATIVE REMOVAL	\$16.00	\$3,072.00
192	CYD VEGETATIVE REMOVAL DUMPING FEE	\$18.00	\$3,456.00
		<b>Subtotal</b>	<b>\$8,778.00</b>
		<b>Total Amt</b>	<b>\$8,778.00</b>
		<b>Balance Due</b>	<b>\$8,778.00</b>



Please contact us for more information about payment options.

Thank you for your business.

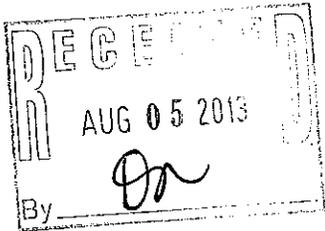


**SIRDAR TRUCKING, INC**  
 13332 71ST PL N WEST PALM BEACH FL 33412  
 PHONE# 561-723-6820 OR 561-714- 2229  
 FAX# 561-791-3964  
 email: samantha.sirdar@yahoo.com

# Invoice

Date: 08/02/2013  
 Invoice No.: 10091  
 Due Date: 08/02/2013  
 Salesperson: SAMANTHA SIRDAR  
 Customer PO No.: 13-0704

**Bill To:**  
**TOWN OF LOXAHATCHEE GROVES**  
 14579 Southern Boulevard, Suite 2 Loxahatchee  
 Groves, Florida 33470

Qty	Description	Unit Price	Total
	8-1-13 TO 8-2-13		
20	HOUR MOWING	\$45.00	\$900.00
128	CYD VEGETATIVE ROMOVAL	\$16.00	\$2,048.00
128	CYD VEGETATIVE ROMOVAL DUMPING FEE	\$18.00	\$2,304.00
			
		<b>Subtotal</b>	<b>\$5,252.00</b>
		<b>Total Amt</b>	<b>\$5,252.00</b>
		<b>Balance Due</b>	<b>\$5,252.00</b>

Please contact us for more information about payment options.

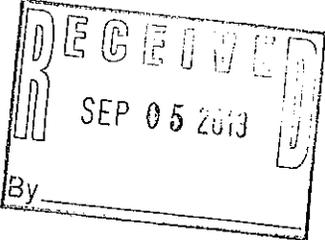
Thank you for your business.

**SIRDAR TRUCKING, INC**  
 13332 71ST PL N WEST PALM BEACH FL 33412  
 PHONE# 561-723-6820 OR 561-714- 2229  
 FAX# 561-791-3964  
 email: samantha.sirdar@yahoo.com

# Invoice

Date: 09/02/2013  
 Invoice No.: 10097  
 Due Date: 09/02/2013  
 Salesperson: SAMANTHA SIRDAR  
 Customer PO No.: 13-0704

**Bill To:**  
**TOWN OF LOXAHATCHEE GROVES**  
 14579 Southern Boulevard, Suite 2 Loxahatchee  
 Groves, Florida 33470

Qty	Description	Unit Price	Total
	8-5-13 to 8-6-13		
20	HOUR MOWING	\$45.00	\$900.00
176	CYD VEGETATION REMOVAL	\$16.00	\$2,816.00
176	CYD VEGETATION REMOVAL	\$18.00	\$3,168.00
			
		<b>Subtotal</b>	<b>\$6,884.00</b>
		<b>Total Amt</b>	<b>\$6,884.00</b>
		<b>Balance Due</b>	<b>\$6,884.00</b>

Please contact us for more information about payment options.

Thank you for your business.



**SIRDAR Trucking and Tractor Service  
Trailer Volumetric Capacity Analysis**

prepared for:  
**Town of Loxahatchee Groves**

prepared by:  
**KESHAVARZ & ASSOCIATES, INC.**  
711 North Dixie Highway, Suite 200  
West Palm Beach, Florida 33401  
phone: (561) 689-8600  
fax: (561) 689-7476

**Randy Wertepny, P.E.**  
P.E. # 72504



KESHAVARZ & ASSOCIATES

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## Summary of Analysis:

Measurements of the subject trailer were obtained on Friday August 16th, 2013.

Trailer: All American Trailer Inc. - 10SR "Big Tex" Dumping Trailer

The trailer was measured to have a width of 7.25' and a length of 12.0'. The height of the trailer has variable conditions. The first 2' of height is enclosed on all four sides, fixed metal siding on three sides and a locking tailgate. There are optional slats along the two 12' sides of the trailer for an additional 3.25' of height, for a total height of 5.25'. It should be noted that at the time of the measurements, the top slat/rail was not in place for a total height of 4.5'. The contractor indicated that the trailer was hand loaded.

Volumetric measurements for vegetation have several variable conditions based upon the loading method of the trailer and the ability to compact the vegetation to utilize the full capacity of the trailer. Therefore the Federal Emergency Management Agency's (FEMA) guidelines for debris monitoring was utilized in the following calculations, FEMA Fact Sheet 9580.203 and Recovery Policy RP9523.12.

Pursuant to the FEMA guidelines, vegetation in a trailer can only be compacted to utilize the maximum capacity if there are four sides on the trailer. The maximum capacity assuming compaction for the lower portion of the subject trailer is 6.44 CY ( $V = L * W * H / 27$ ).

According to the FEMA guidelines a trailer without a back (missing one side) should have a 15% reduction in maximum capacity to compensate for void space and compaction. The subject trailer is missing the front and the back sides therefore the maximum capacity of the upper portion of the trailer is assumed to be 7.33 CY ( $V = (L * W * H / 27) * (70\%)$ ). As previously noted, the upper rail was not present during the time of the measurement, the maximum capacity of the upper portion of the trailer per FEMA guidelines without the top rail is 5.64 CY. It should also be noted that trailers with non-fixed rails cannot be compacted to the capacity of a trailer with fixed walls.

The total capacity of the trailer per FEMA guidelines, assuming that the trailer is fully compacted (mechanically) is 13.77 CY. The capacity without the top rail, as presented during the measurement, is 12.08 CY.

FEMA's recovery policy RP9523.12 states that trailers that are hand loaded would only be credited to 50% of the maximum capacity as compaction is minimal. This policy is for the reduction of the maximum capacity solely for the lack of compaction. A slight deduction for the upper portion of the trailer was already accounted for due to the lack of compaction. We recommend to modify the reduction due to hand loading the trailer to 40% for the upper portion.

**Trailer Volumetric Capacity:**

Hand Loaded with Top Rail: Bottom Capacity \* 50% + Top Capacity \* (100% - 40%) = 7.62 CY

Hand Loaded as Measured: Bottom Capacity \* 50% + Top Capacity \* (100% - 40%) = 6.60 CY

Mechanically Loaded with Top Rail: Bottom Capacity + Top Capacity \* (100% - 40%) = 10.84 CY

Mechanically Loaded as Measured: Bottom Capacity + Top Capacity \* (100% - 40%) = 9.82 CY



FEDERAL EMERGENCY MANAGEMENT AGENCY

# DISASTER ASSISTANCE DIRECTORATE

## FACT SHEET

1980-2013

# DEBRIS MONITORING

### Overview

When a disaster event occurs that produces large amounts of debris, effective coordination is required between the Public Assistance applicant, State, and FEMA to ensure that debris removal operations are efficient, effective, and eligible for FEMA Public Assistance grant funding. Eligible Public Assistance applicants are encouraged to monitor debris removal operations and document eligible quantities and reasonable expenses to ensure that the work is eligible for Public Assistance grant funding. Failure to do so properly may jeopardize this funding.

Public Assistance applicants can use force account resources or contractors to monitor debris removal operations, or a combination of both. Regardless of the method, the applicant is responsible for ensuring that applicant-managed debris removal work (either force account or contract) being funded through Public Assistance grants is eligible in accordance with Public Assistance guidelines. This Fact Sheet provides Public Assistance applicants with information on how to properly monitor applicant-managed debris removal operations to ensure compliance with these guidelines. It also provides information on debris monitoring responsibilities and duties that apply to both force account and contractor operations; however, some information provided only applies to debris operations performed under contract.

### Debris Monitoring Responsibilities and Duties

Monitoring debris removal operations requires comprehensive observation and documentation by the Public Assistance applicant of debris removal work performed from the point of debris collection to final disposal. Monitoring debris removal work involves constant observation of crews to ensure that workers are performing eligible work in accordance with Public Assistance guidelines, and helps to verify compliance with all applicable Federal, State, and local regulations.

A number of different entities play a role in monitoring debris removal operations to ensure that they are efficient, effective and eligible for FEMA Public Assistance funding. It is important that these entities work together to communicate and resolve issues in the field so that reimbursement funding for debris removal operations is not jeopardized. Below is a table which addresses the general monitoring responsibilities and tasks of different partners in the debris removal operation. The table is followed by specific monitoring responsibilities and duties for both force account and contractor debris monitors in the field.

## DEBRIS MONITORING

Entity	Responsibilities	Tasks
Debris Removal Contractor	Conduct debris removal operations per the terms of the contract.	<ul style="list-style-type: none"> <li>▫ Monitor its own day-to-day operations to ensure its contractual obligations are being met.</li> </ul>
Public Assistance Applicant Monitoring Contractor	Works for Applicant to monitor debris contractor's day-to-day operations to ensure the applicants expectations and contractual requirements are being met.	<ul style="list-style-type: none"> <li>▫ Provide debris monitoring personnel who are trained in eligibility.</li> <li>▫ Monitor operations in accordance with the contract requirements.</li> <li>▫ Provide all monitoring documents as required in the monitoring contract.</li> </ul>
Public Assistance Applicant (subgrantee)	Provide oversight and quality assurance of both the debris removal contract and the monitoring contract (if applicable). Request PA funds for eligible work. Ensure performance measures are met and eligible work is documented. Understand eligibility requirements and ensure work performed under the contract meets these requirements.	<ul style="list-style-type: none"> <li>▫ Designate project manager.</li> <li><i>If debris removal is performed by force account labor:</i></li> <li>▫ Provide documentation to substantiate eligible debris quantities.</li> <li>▫ Ensure compliance with subgrant requirements.</li> <li><i>If debris removal is performed under contract:</i></li> <li>▫ Ensure that debris removal contractors and monitoring contractors (if applicable) understand eligibility requirements for the debris removal operations.</li> <li>▫ Ensure that only eligible debris quantities are being claimed for Public Assistance.</li> <li>▫ Resolve issues or discrepancies associated with the contract.</li> </ul>
State (Grantee)	Ensure grant requirements outlined in the 44 CFR are being met and that PA applicants are receiving funds for eligible costs. Responsible for monitoring the grant and subgrant to ensure compliance with Federal, State and local laws and regulations.	<ul style="list-style-type: none"> <li>▫ Monitor the grant and subgrant requirements.</li> <li>▫ Ensure that the applicant is sufficiently monitoring the debris removal operation (FEMA \ Grantee effort).</li> <li>▫ Conduct random monitoring at load sites and disposal sites to ensure compliance with grant requirements (FEMA \ Grantee effort).</li> <li>▫ Notify subgrantee of compliance issues and outline corrective actions (FEMA \ Grantee effort).</li> </ul>
FEMA	Ensure grant requirements outlined in 44 CFR are being met. Fund eligible work. Responsible for the preparation of large project worksheets, development of the scope of work and the obligation of funds. Responsible for monitoring the grant to ensure compliance with Federal, State and local laws and regulations.	<ul style="list-style-type: none"> <li>▫ Develop large project worksheets in coordination with the Grantee and subgrantee.</li> <li>▫ Utilize monitors to ensure that the applicant is sufficiently monitoring the debris removal operation. (FEMA \ Grantee effort)</li> <li>▫ Conduct random monitoring at load sites and disposal sites to ensure compliance with grant requirements. (FEMA \ Grantee effort).</li> <li>▫ Notify Grantee/subgrantee of compliance issues and outline corrective actions (FEMA \ Grantee effort).</li> <li>▫ Increase or decrease monitoring efforts as necessary to ensure corrective actions are in place and operations are being effectively monitored.</li> </ul>

## DEBRIS MONITORING

The specific responsibilities and duties of individual debris monitors in the field are the same for both force account and contracted debris monitoring operations. They are:

- o Report issues to their direct supervisor which require action (such as safety concerns, contractor non-compliance and equipment use)
- o Accurately measure and certify truck capacities (recertify on a regular basis)
- o Properly and accurately complete and physically control load tickets (in tower and field)
- o Ensure that trucks are accurately credited for their load
- o Ensure that trucks are not artificially loaded (ex: debris is wetted, debris is fluffed—not compacted)
- o Validate hazardous trees, including hangers, leaners, and stumps
- o Ensure that hazardous wastes are not mixed in loads
- o Ensure that all debris is removed from trucks at Debris Management Sites (DMS)
- o Report if improper equipment is mobilized and used
- o Report if contractor personnel safety standards are not followed
- o Report if general public safety standards are not followed
- o Report if completion schedules are not on target
- o Ensure that only debris specified in the contract is collected (and is identified as eligible or ineligible)
- o Assure that force account labor and/or debris contractor work is within the assigned scope of work
- o Monitor site development and restoration of DMSs
- o Report to supervisor if debris removal work does not comply with all local ordinances as well as State and Federal regulations (i.e., proper disposal of hazardous wastes)
- o Record the types of equipment used (Time & Materials contract)
- o Record the hours equipment was used, include downtime of each piece of equipment by day (Time & Materials contract)

Applicants may request FEMA/State assistance with debris monitoring or monitor training.

*Only FEMA has the authority to make eligibility decisions; contractors cannot make eligibility determinations. Information on eligibility can be found in the Public Assistance Debris Management Guide FEMA 325, the Public Assistance Policy Digest FEMA 321, the Public Assistance Applicant Handbook FEMA 323, and the Public Assistance Guide FEMA 322.*

Unlike other categories of work eligible for Public Assistance grants, initial debris removal project worksheets typically do not have a defined scope of work, since precise quantities of debris are difficult to attain. Therefore, unit price contracts which pay by debris volume or weight removed are typically implemented. Unit price contracts require extensive monitoring to determine accurate quantities of eligible debris removed and disposed. As load tickets are compiled and accurate quantities are determined through monitoring, the scope of work for the project worksheet, or version, is established.

## DEBRIS MONITORING

In some cases, time and materials contracts may be more cost effective and appropriate for the amount and type of eligible work to be performed. For both time and materials and lump sum contracts, debris monitors must still document and quantify eligible debris amounts in order to determine reasonableness of costs.

The table below includes a breakdown of monitoring requirements by contract type.

Type of Contract	Project Worksheet Scope of Work	Subgrantee Monitoring Required					Comments
		Crew Efficiency	Load site	DMSs	Disposal sites	Fraud	
Lump Sum	Defined debris quantities and reasonable costs. Estimate is basis for contract costs.		✓		✓		Quantities are still required to determine reasonable costs.
Unit Price - CY	Based on eligible debris listed on load tickets	✓	✓	✓	✓	✓	
Unit Price - Ton	Based on actual weight measurements of eligible debris listed on load tickets.		✓		✓	✓	
Time and Materials	Based on labor, equipment and materials records. Reasonable costs evaluated by determining costs per unit.	✓	✓		✓	✓	Typically used for road clearance. If used for debris removal, quantities are still required to determine reasonable costs. Eligible costs are restricted to up to 70 hours.

The request for proposal (RFP) for debris monitoring contracts should outline the qualification of debris monitors. The qualifications should be appropriate for the individual responsibilities and duties listed above, and debris monitors should have experience working on construction sites and be familiar with safety regulations. It is not necessary to have professional engineers and other certified professionals perform these duties. Debris monitors primarily should have the ability to estimate debris quantities, differentiate between debris types, properly fill out load tickets, and follow all site safety procedures.

The RFP should also outline possible locations to be monitored and reporting requirements to document eligible debris quantities.

## DEBRIS MONITORING

Monitoring contracts are typically time and materials and must contain a *not-to-exceed* clause per the requirements of Part 13 of 44 CFR. The subgrantee should ensure the level of monitoring and overhead claimed is commensurate with the level of effort required to effectively monitor the debris removal and monitoring operation. In addition to the costs for the monitors, the subgrantee can claim as part of its monitoring project worksheet reasonable costs for the debris monitoring contractor to provide training, oversight, and data compilation as required by the terms of the contract. Architectural and engineering service overhead should not be claimed. Additional information on costs that are eligible can be found in the *Public Assistance Debris Management Guide FEMA 325*.

The monitoring contractor costs associated with compiling data to verify costs invoiced by the debris removal contractor can be an eligible expense. Costs associated with attending meetings with FEMA and/or the Grantee and compiling documentation for the production of project worksheets are funded through the administrative allowance as stated in 44 CFR, Part 206.228 and cannot be a direct charge to a Public Assistance grant.

### Reporting Requirements & Performance Materials

If FEMA is providing grant assistance for the applicant's monitoring contract, a sample of the reporting requirements outlined in the contract will be required to substantiate the eligible costs. This sample must be adequate to demonstrate that sufficient measures were taken to ensure eligibility and accurate quantities are being reported as part of the grant. Applicants should require debris monitors to submit daily reports on load quantities, debris management site operations, and operational and safety issues in the field. Regular reporting helps to promote quality assurance and provides the applicant with a consistent accounting of operations in the field.

If a time and materials monitoring contract is used, the contractor will have to supply labor, equipment and material records to the subgrantee in order to substantiate the actual costs in the project worksheet.

Continuous monitoring of all activities of a debris contractor can help promote efficiency and effectiveness in the debris removal operation. In evaluating a contractor's performance, primary interest is in the progress toward completion of the services called for and the financial status of the contract. It is important that the contract provide for submission of reports and payment estimates to aid in evaluating the contractor's progress.

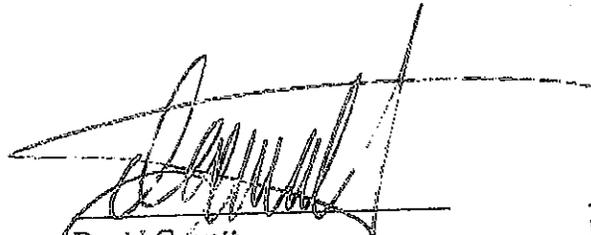
Applicant debris monitoring responsibilities may include tracking performance measures used to assess the progress of debris removal operations in the field. Specific debris contract performance measures may include:

- o Percentage completion tracking
- o Adherence to contract time schedules
- o Adherence to contract cost schedules

## DEBRIS MONITORING

### Contract Procurement Requirements

To be eligible for reimbursement under the Public Assistance Program, contracts for debris monitoring must meet rules for Federal grants, as provided for in 44 CFR Part 13.36 *Procurement* ([http://www.access.gpo.gov/nara/cfr/waisidx\\_04/44cfr13\\_04.html](http://www.access.gpo.gov/nara/cfr/waisidx_04/44cfr13_04.html)). Public Assistance applicants should comply with their own procurement procedures in accordance with applicable State and local laws and regulations, provided that they conform to applicable Federal laws and standards identified in Part 13.



David Garratt  
Acting Assistant Administrator  
Disaster Assistance Directorate

5/3/07  
Date



# FEMA

## RECOVERY POLICY - RP9523.12

I. TITLE: Debris Operations -- Hand-Loaded Trucks and Trailers

II. DATE: May 1, 2006

III. PURPOSE:

To describe the criteria the Federal Emergency Management Agency (FEMA) will use to reimburse applicants for eligible debris removal accomplished with trucks and trailers loaded physically by hand, rather than with mechanical equipment.

IV. SCOPE AND AUDIENCE:

The policy is applicable to all major disasters and emergencies declared on or after the date of publication. It is intended for all personnel involved in the administration and execution of the Public Assistance Program, including applicants.

V. AUTHORITY:

Sections 403 and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206, as amended.

VI. BACKGROUND:

A. Debris removal companies under contract with local governments have frequently supplemented their vegetative debris removal operations by hiring subcontractors who modify their trucks and trailers by extending sidewalls with plywood or other materials to increase the vehicle's load capacity. Because of the tenuous nature of these improvements, operators typically load these vehicles physically by hand. The inefficiencies associated with loading these trucks or trailers by hand, instead of using mechanical equipment, effectively negates the increased capacity advantages of these vehicles. Hand loading cannot achieve compaction levels comparable to mechanically loaded vehicles. Further, the unit cost for transporting debris is based on mechanical loading of trailers and trucks.

B. FEMA performed studies throughout the State of Florida following the four devastating hurricanes in 2004 and determined that a mechanically-loaded vehicle had a weight-to-volume ratio at least twice that of hand-loaded vehicles. In other words, vehicles of the same measured capacity that were loaded by mechanical equipment and reasonably compacted carried at least



# FEMA

## RECOVERY POLICY - RP9523.12

twice the volume of debris as those loaded physically by hand. FEMA has therefore determined it is not reasonable to reimburse applicants - for hand-loaded vehicles and mechanically loaded vehicles - at the same rate.

### VII. POLICY:

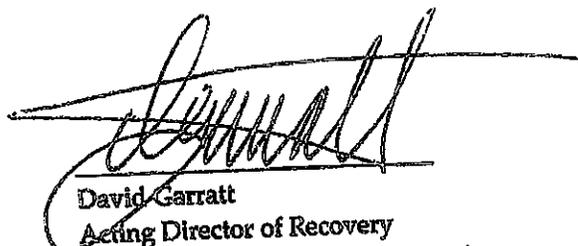
A. Debris monitors located at temporary or final debris disposal sites will reduce the observed capacity of each hand-loaded truck or trailer load by 50% because of the low compaction achieved by hand-loading. For example, if a 40 cubic-yard (CY) hand-loaded truck or trailer arrives at a debris management or disposal site, and it appears to be 100 percent full, the actual quantity of debris in the truck or trailer will be recorded as 20 CY  $\{[(40 \text{ CY} / 2) * 100\%]\}$ . In the same manner, if the truck or trailer appears half full, the load will be recorded as 10 CY  $\{[(40 \text{ CY} / 2) * 50\%]\}$ . The maximum amount recorded for a hand-loaded vehicle will be 50% of its measured capacity.

B. FEMA will reimburse applicants on the basis of capacities calculated in VII-A.

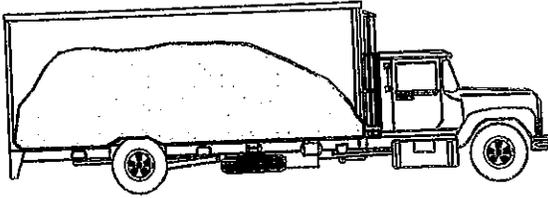
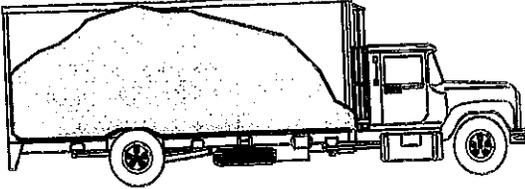
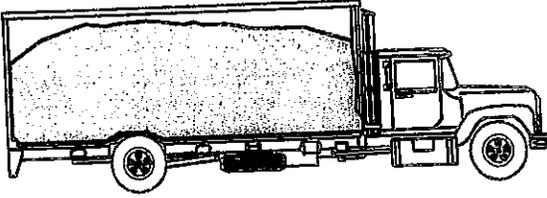
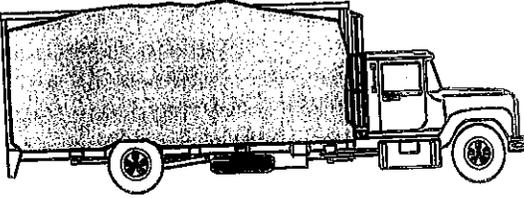
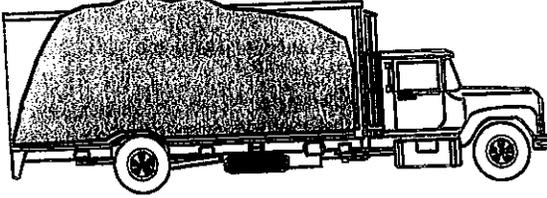
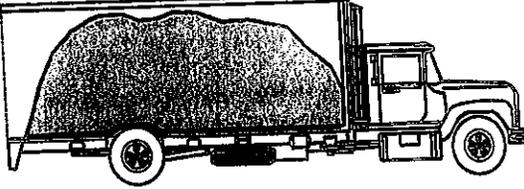
VIII. ORIGINATING OFFICE: Recovery Division (Public Assistance Branch)

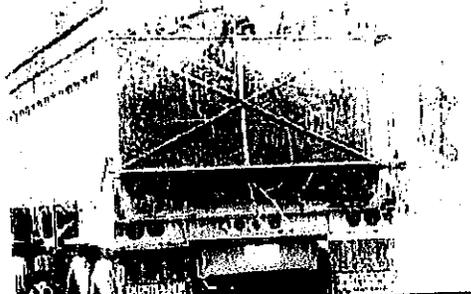
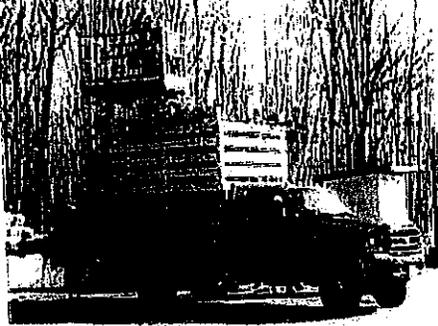
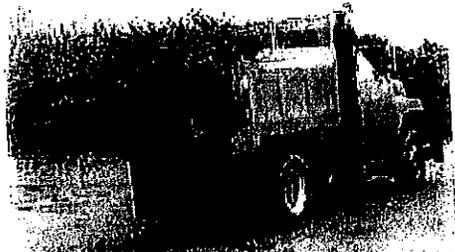
IX. SUPERSESION: Not applicable.

X REVIEW DATE: Three years from the date of publication.

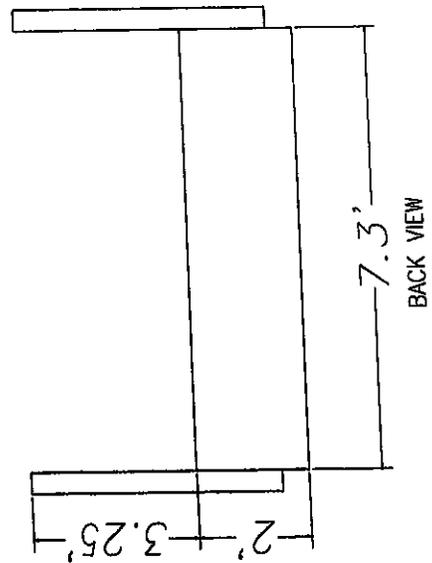
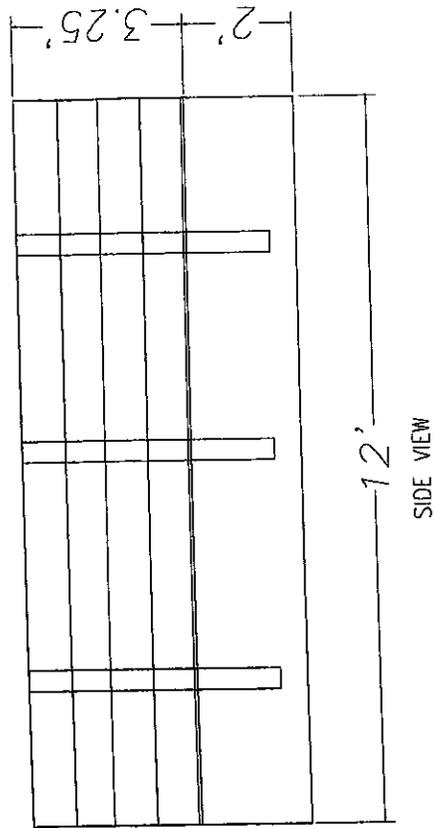
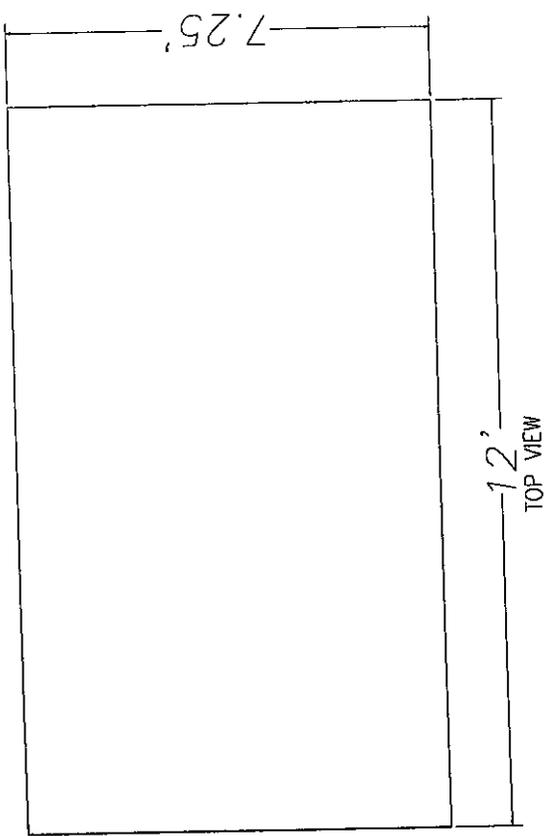
  
David Garratt  
Acting Director of Recovery  
Federal Emergency Management Agency

<b>GENERAL DEBRIS MONITORING TIPS AND CONSIDERATIONS (CONTINUED)</b>	
<b>Debris Challenges</b>	
<ul style="list-style-type: none"> <li>◦ <i>Vegetative Debris Challenges:</i> Hazardous leaners, stumps, and hangers can be difficult to measure consistently (particularly because monitors must determine if leaners are leaning at least 30 degrees and eligible to be cut). Debris monitors should have a map of all roads and work with the applicant's public works department to determine the length and location of the public right-of-way.</li> <li>◦ <i>Construction and Demolition Debris Challenges:</i> Debris generated from prior construction work may be comingled with disaster-generated construction and demolition (C&amp;D) debris by citizens. Some citizens may claim that remodeling or renovation work is C&amp;D material too. Many people will choose to remodel a house after a storm instead of demolishing it. The materials from the remodeling are not eligible; these are notable because they look like new materials instead of disaster-damaged materials. A rule of thumb is that no bricks or foundation material would be hauled or considered eligible for FEMA PA reimbursement.</li> <li>◦ <i>Hazardous Waste Challenges:</i> Health issues, such as headaches and vomiting, can arise at a burning site if the debris stream includes mixed debris and hazardous chemicals. Soil and air contamination can occur at the pick-up location, along the transit route, and at the DMS. Appropriate precautionary measures should be implemented when hazardous materials are identified. Further, the applicant should implement proactive measures to ensure that all hazardous materials are identified.</li> <li>◦ <i>White Goods Challenge:</i> When debris removal is extended beyond 90-180 days, some residents will try to discard their current appliance for free by claiming it is storm debris. The disposal requirements for white goods should include instruction on how to prepare the white goods, ensuring the materials on the curb do not present a safety hazard.</li> </ul>	
<b>DEBRIS MONITOR GUIDELINES FOR ESTIMATING QUANTITIES</b>	
<b>Monitoring Debris Trucks – Guideline for Estimating Loads in Trucks</b>	
<ul style="list-style-type: none"> <li>◦ Check the truck number on the placard.</li> <li>◦ Check that the capacity (size) of the truck written on the ticket matches the size marked on the side of the truck.</li> <li>◦ Walk around the truck. Make sure that the truck is loaded with disaster debris. Ensure that the truck is not falsely loaded.</li> <li>◦ When the truck leaves, make sure it is completely empty.</li> <li>◦ If there is no tailgate on a truck, the truck is not full. The maximum estimate of the capacity of the load is 85 percent full. However, the monitor must use good judgment to determine if the load is really 85 percent. It is more likely that the truck is between 40 percent and 60 percent full.</li> <li>◦ There are other percentage variations of how a truck can be filled (see illustrations and photographs that follow).</li> <li>◦ A truck is 100 percent full only when the debris is filled completely to the brim and the truck is heaped above the sideboards. The truck must have a tailgate that secures the entire back end of the truck.</li> </ul> <p>Note: It is difficult, though not impossible, for a truck to be 100 percent loaded because woody debris, trees, branches, and rubble cannot be placed in a truck without having air holes. Applicant debris monitors and FEMA Debris Monitoring Specialists typically record estimated volumes in 5 percent increments. FEMA will allow a truck to be recorded as 100 percent full if debris volumes can reasonably (and safely) be estimated to meet or exceed certified truck container capacities.</p>	

DEBRIS MONITOR GUIDELINES FOR ESTIMATING QUANTITIES	
	
<p><b>60 Percent Debris Load in Truck</b> If truck bed measured 20 cubic yards (CY), this 60 percent load would be 12 CY.</p>	<p><b>75 Percent Debris Load in Truck</b> If truck bed measured 20 CY, this 75 percent load would be 15 CY.</p>
	
<p><b>85 Percent Debris Load in Truck</b> If truck bed measured 20 CY, this 85 percent load would be 17 CY.</p>	<p><b>95 Percent Debris Load in Truck</b> If truck bed measured 20 CY, this 95 percent load would be 19 CY.</p>
	
<p><b>85 Percent Debris Load in Truck w/ No Tailgate</b> This truck has no structural tailgate—the capacity would automatically be reduced from 20 CY to 17 CY (85 percent reduction). Then the debris load itself is 85 percent of fully loaded—14.5 CY.</p>	<p><b>75 Percent Debris Load in Truck w/ No Tailgate</b> This truck has no structural tailgate—the capacity would automatically be reduced from 20 CY to 17 CY (85 percent reduction). Then the debris load itself is 75 percent of fully loaded—12.8 CY.</p>

DEBRIS MONITOR GUIDELINES FOR ESTIMATING QUANTITIES	
	
<p>Truck without a structural tailgate. Its maximum load is automatically reduced to 85 percent of the rated truck size.</p>	<p>Truck without a tailgate. Its load capacity is automatically reduced to 85 percent. Slat-sided trucks may not be capable of being mechanically compacted. This means the truck capacity should be further reduced.</p>
	
<p>Truck without a tailgate. Its maximum load capacity is reduced to 85 percent. This truck is claimed to be 'fully loaded' with branches sticking above the top and beyond the back of the truck bed—the actual load is only 75 percent.</p>	<p>Truck with branches extending above the top of the truck sides. Although claiming to be 'fully loaded,' the load is filled with air pockets and the actual load is only 70 percent of the rated load capacity.</p>
	
<p>This 20-CY roll-off container has a tailgate (in open position). The load appears to be near top of truck sides and was estimated at 85 percent. The assessment was done from the ground; no monitor tower was used at this DMS (see next photograph).</p>	<p>This is the actual load from the 20-CY container truck shown on left. It measures approximately 4 CY when on the ground.</p>

10SR "BIG TEX" DUMPING TRAILER  
 FROM ALL AMERICAN TRAILER INC.







## Town of Loxahatchee Groves

14579 Southern Boulevard, Suite 2 • Loxahatchee Groves, Florida 33470 • (561) 793-2418 Phone • (561) 793-2420 Fax • clerk@loxahatcheegroves.org

September 13, 2013

Mrs Phoolmattie Sirdar  
SIRDAR TRUCKING, INC  
13332 71<sup>st</sup> Place, N  
West Palm Beach, FL 33412

Dear Mrs Sirdar:

The Town of Loxahatchee Groves is in receipt of your invoices submitted on August 5, 2013 and September 5, 2013.

Based upon the information provided in the aforementioned transmittals and our thorough review of the same, Town Management will approve the amount of \$26,546.66 pursuant to the attached Engineering report entitled "Trailer Volumetric Capacity Analysis" prepared by the Town's Engineer, Keshavarz & Associates, which provides the basis for a payment of 7.11 cubic yards per each load ticket, and mowing charges as submitted. In addition, payment is further based upon the 67 load tickets that Town Management was able to substantiate.

Your payment is currently being processed and your check will be available on Monday, September 23, 2013. Should you have any questions, please contact Perla Underwood or me at 793-2418.

Sincerely

A handwritten signature in blue ink that reads "Mark A. Kutney".

Mark A. Kutney, AICP, ICMA-CM  
Town Manager

Enclosure

cc: Perla D. Underwood, UMSG

FUCHS AND JONES, P.A.  
ATTORNEYS AT LAW

Telephone (561) 793-0600  
Telecopier (561) 793-7079

LAWRENCE M. FUCHS  
ROBERT D. JONES

12794 W. FOREST HILL BLVD., SUITE 32  
WELLINGTON FL 33414-4758

October 23, 2013

Michael D. Cirullo, Jr., Esq.  
Goren, Cherof, Doody & Ezrol, P.A.  
3099 East Commercial Boulevard  
Suite 200  
Fort Lauderdale, FL 33308

RE: Sirdar Trucking, Inc./Town of Loxahatchee Groves  
Unpaid Invoices 10088, 10089, 10090, 10091 and 10097

Dear Mr. Cirullo:

This follows up our settlement conference of October 16, 2013. At the outset, my client and I would like to thank you and the Town staff for attending.

The salient facts which I gleaned from the meeting are as follows: Sirdar Trucking, Inc. timely invoiced Town for mowing and vegetation removal services for the Town roads. Town has no dispute with the portion of the invoices attributable to the mowing. Town does dispute the number and cubic yardage of loads of vegetation removal and disposal. Each of the invoices submitted to Town were accompanied by One Stop Garden Shop, Inc. receipts for 70 loads at 16 yards per load each. Also, enclosed please find copies of Sirdar Trucking, Inc.'s checks to "One Stop Garden" for 67 loads. The first three (3) loads delivered to "One Stop Garden" on 07/08/13 were paid in cash, thus showing a total of seventy (70) loads. Respecting the cubic yards per load, Town's engineering firm, Keshavarz & Associates measured Sirdar's trailer at 7.25'x12'x5.25' which is 16.91 c.y. Using FEMA Guidelines, they pegged the capacity if fully compacted at 13.77 c.y. Sirdar mechanically compacted the trailer using the boom of the tractor.

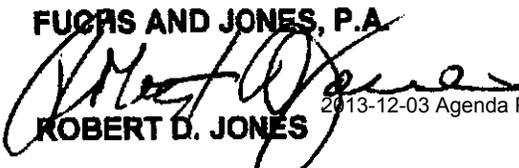
Based upon the foregoing, Sirdar would offer to settle the above disputed numbered invoices for the total sum of \$43,122.00, computed as follows:

Mowing	\$10,350.00
Vegetation Removal-70 loads at \$13.77 x 16 yards	\$15,422.00
Vegetation Dumping-70 loads at \$13.77 x 18 yards	<u>\$17,350.00</u>
	<u>\$43,122.00</u>

Please respond to this offer as soon as possible.

Sincerely yours,

FUCHS AND JONES, P.A.

  
ROBERT D. JONES

2013-12-03 Agenda Packet 263 of 271

Enclosures



**GOREN CHEROF  
DOODY & EZROL P.A.**  
ATTORNEYS AT LAW

Michael D. Cirullo, Jr.  
mclrullo@cityatty.com

November 14, 2013

Via E-Mail (rjones@fuchsandjones.com) and U.S. Mail

Robert Jones, Esq.  
Fuchs and Jones, P.A.  
12794 W. Forest Hill Boulevard  
Suite 32  
Wellington, FL 33414

RE: Sirdar Trucking, Inc. adv. Town of Loxahatchee Groves

**CORRESPONDENCE FOR SETTLEMENT PURPOSES**

Dear Mr. Jones:

I am in receipt of your October 23, 2013, letter containing an offer to resolve this matter for payment of \$43,122.00. We concluded our October 16, 2013, meeting, indicating the next two steps were: (1) Sirdar was going to review its records and provide additional information to support its invoices for maximum volume on each load; and, (2) the parties would provide a mechanism for going forward under the contract, which would include a verification system such as depositing the loads at the Solid Waste Administration site, which measures weight which in turn can be converted into volume.

Your October 23, 2013, correspondence included documentation to confirm payment for 67 loads. As you note in your letter, for purposes of resolving this matter, the Town is not taking issue with the number of loads. The October 23, 2013, correspondence did not include any additional information to support the volume for the loads, nor did it contain a proposal for going forward.

The Town Administration would like to resolve this matter and move forward. However, without additional information supporting that each load was mechanically compacted and the maximum volume of the trailer removed and dumped, it cannot recommend payment in the amount of your offer. In your letter, you indicate that the Town engineer used FEMA guidelines to calculate the fully compacted trailer at 13.77 cubic yards. Yet, the Town Engineer also indicated that FEMA guidelines for hand loaded trailers would be credited only 50% of maximum capacity. The Town Engineer then calculated the hand loaded volume, both with the

Please reply to Fort Lauderdale Office

Fort Lauderdale Office  
3099 E. Commercial Blvd., Suite 200, Fort Lauderdale, FL 33308. T 954-771-4500 | F 954-771-4923

Delray Beach Office  
76 N.E. Fifth Avenue, Delray Beach, FL 33483. T 561-276-9400

[www.cityatty.com](http://www.cityatty.com)

top rail and without, and the mechanically loaded volume, both with the top rail and without. Those calculations are set forth in page 2 of the Report Summary of Analysis provided by the Engineer to the Town.

Given the manner in which the work was completed, the Town Administration believes a fair resolution would be to take the average of the hand-loaded capacity as recommended by the Town Engineer, which calculates to 7.11 cubic yards, and the average of the mechanically loaded capacity, which calculates to 10.33, then average those two numbers to get to a capacity of 8.72 cubic yards. This would account for some hand loading, some mechanical loading, some loads with the hand railing, some loads without the hand railing.

Using 8.72 cubic yards, the Town Administration would recommend the following offer to the Town Council to resolve the outstanding invoices:

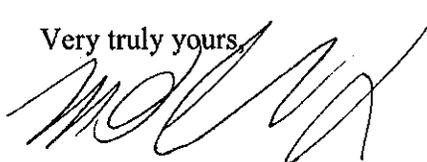
Mowing:	\$10,350.00
Vegetation Removal-70 loads * 8.72 c.y. * \$16.00	\$ 9,766.40
Vegetation Dumping-70 loads * 8.72 c.y. * \$18.00	<u>\$10,987.20</u>
<b>TOTAL:</b>	<b>\$31,103.60</b>

In addition, the parties would agree to an Addendum to the Agreement to address future work, where the volume will be calculated using FEMA guidelines, and verified by Sirdar, such as, by depositing the vegetative waste at a facility that weighs it, and then it can be converted into volume.

Please note that the next Town Council meeting at which this matter can be considered is Tuesday, December 3, 2013. There is not second meeting in December. In order to have this item on the agenda for the December 3, 2013, meeting, your acceptance of this offer must be received and the Addendum prepared and agreed to by Sirdar and Town Administration, no later than Tuesday, November 26, 2013.

Upon your review, please contact me if you would like to discuss further. I look forward to your favorable review and to amicably resolving this matter.

Very truly yours,



MICHAEL D. CIRULLO, JR

CC: Mark Kutney, Town Manager

MDC:clb

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**Item 11 b.**

**Town Attorney**

**Attorney General Opinion regarding definition of surrounding property**



**GOREN CHEROF  
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ATTORNEYS AT LAW

December 4, 2013

**VIA REGULAR MAIL**

The Honorable Pam Bondi  
Florida Attorney General  
Department of Legal Affairs  
The Capital PL-01  
Tallahassee, FL 32399-1050

RE: Town of Loxahatchee Groves, Florida/ Request for Attorney General's Opinion

Dear Attorney General Bondi:

This letter shall serve as a request by the Town Council of the Town of Loxahatchee Groves, Florida, (the "Town"), a Florida municipal corporation, for a formal opinion of the Attorney General. On behalf of the Town Council, an Attorney General's Opinion is respectfully requested on the following question:

**IN SECTION 163.3162(4), FLORIDA STATUTES, WHAT IS THE MEANING OF THE PHRASE "SURROUND THE PARCEL"?**

**Background**

The Town of Loxahatchee Groves borders on a 3,791 acre parcel that is designated in the Palm Beach County Comprehensive Plan as an "Agricultural Enclave." The parcel is bounded on the north and east by residential development with an average density of 0.80 residential units per acre. The parcel is bounded on the south by the Town, with an average density of 0.20 residential units per acre. The parcel is bounded on the west by agricultural and rural residential uses.

The redevelopment of the parcel was approved by the Palm Beach County Commission in 2008 to permit 2996 dwelling units at a density of 0.80 units per acre and 235,000 square feet of non-residential development. The parcel owners have recently applied to Palm Beach County to amend the Comprehensive Plan relating to this agricultural enclave to more than double the

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currently approved residential density to 6,500 dwelling units, and to increase six-fold the non-residential square footage to 1,400,000 square feet.

### **Legal Analysis**

§ 163.3162(4), Fla. Stat., provides for the right of an owner of a parcel of land defined as an “agricultural enclave” to apply for an amendment to the local government comprehensive plan. An “agricultural enclave” is defined as:

[A]n unincorporated, undeveloped parcel that:

- (a) Is owned by a single person or entity;
- (b) Has been in continuous use for bona fide agricultural purposes, as defined by s. 193.461, for a period of 5 years prior to the date of any comprehensive plan amendment application;
- (c) Is surrounded on at least **75 percent of its perimeter** by:
  - 1. Property that has existing industrial, commercial, or residential development; or
  - 2. Property that the local government has designated, in the local government's comprehensive plan, zoning map, and future land use map, as land that is to be developed for industrial, commercial, or residential purposes, and at least 75 percent of such property is existing industrial, commercial, or residential development;
- (d) Has public services, including water, wastewater, transportation, schools, and recreation facilities, available or such public services are scheduled in the capital improvement element to be provided by the local government or can be provided by an alternative provider of local government infrastructure in order to ensure consistency with applicable concurrency provisions of s. 163.3180; and
- (e) Does not exceed 1,280 acres; however, if the property is surrounded by existing or authorized residential development that will result in a density at buildout of at least 1,000 residents per square mile, then the area shall be determined to be urban and the parcel may not exceed 4,480 acres.

§ 163.3164(4), Fla. Stat. (emphasis added).

§163.3162, Fla. Stat., is entitled “Agricultural Lands and Practices Act” (hereinafter, the “Act”). The purpose of the Act is “to protect reasonable agricultural activities conducted on farm lands from duplicative regulation.” Section (4) of the Act, which was added in 2006, fosters the redevelopment of agricultural lands that meet the above definition of “agricultural enclave” for non-agricultural purposes by presuming that a comprehensive plan amendment is not urban sprawl “if it includes land uses and intensities of use of the industrial, commercial, or residential **areas that surround the parcel.**” §163.3162(4), Fla. Stat. (emphasis added).

In order to analyze whether the proposed comprehensive plan amendment for the “agricultural enclave” is entitled to the presumption that it is not urban sprawl, the land uses and intensities of use of the “areas that surround the parcel” must be reviewed. The meaning of the term is critical to determining whether an agricultural enclave covered by the Act can be redeveloped with the benefit of a presumption that the amendment is not urban sprawl.<sup>1</sup>

In analyzing the meaning of the term “surround” in §163.3162(4), Fla. Stat., the following rules of statutory interpretation apply.

When the statute is clear and unambiguous, courts will not look behind the statute's plain language for legislative intent or resort to rules of statutory construction to ascertain intent. *See Lee County Elec. Coop., Inc. v. Jacobs*, 820 So.2d 297, 303 (Fla.2002). In such instance, the statute's plain and ordinary meaning must control, unless this leads to an unreasonable result or a result clearly contrary to legislative intent. *See State v. Burris*, 875 So.2d 408, 410 (Fla.2004). When the statutory language is clear, “courts have no occasion to resort to rules of construction--they must read the statute as written, for to do otherwise would constitute an abrogation of legislative power.” *Nicoll v. Baker*, 668 So.2d 989, 990-91 (Fla.1996).

*Daniels*, 898 So.2d at 64-65. However, if the statutory intent is unclear from the plain language of the statute, then “we apply rules of statutory construction and explore legislative history to determine legislative intent.” *BellSouth Telecomms., Inc.*, 863 So.2d at 289.

*Koile v. State*, 934 So. 2d 1226, 1230-31 (Fla. 2006)

Notably, the term “surround” is not defined in either §163.3162 or §163.3164 (the definition section for the Community Planning Act). The staff analysis of the legislation when it was adopted by the Florida Legislature in 2006 does not provide any insight into the intended meaning of the term “surround.”<sup>2</sup> Therefore, one must look at the ordinary definition of the term “surround.”

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<sup>1</sup> “Urban sprawl” means a development pattern characterized by low density, automobile-dependent development with a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses. § 163.3164(51), Fla. Stat.

<sup>2</sup> See House of Representative Staff Analysis for House Bill 1015 CS, dated April 11, 2006.

When considering the meaning of terms used in a statute, this Court looks first to the terms' ordinary definitions. *Hanbury*, 124 So. at 281 (“In the interpretation of statutes[,] words in common use are to be construed in their natural, plain, and ordinary signification, unless it appears they were used in a technical or other sense.”). Those definitions may be derived from dictionaries. *L.B. v. State*, 700 So.2d 370, 372 (Fla.1997) (“[A] court may refer to a dictionary to ascertain the plain and ordinary meaning which the legislature intended to ascribe to the term.”).

*Metro. Cas. Ins. Co. v. Tepper*, 2 So. 3d 209, 214 (Fla. 2009)

Merriam-Webster’s Dictionary defines “surround” as “to enclose on all sides: ENVELOP,” as well as “to extend around the margin or edge of: ENCIRCLE.”<sup>3</sup> Thus, the ordinary definition of “surround” would be that the properties that enclose the agricultural enclave around its margin should be the properties that are used to analyze whether the proposed comprehensive plan amendment is urban sprawl.

This meaning is further justified when §163.3162(4), Fla. Stat., is applied in conjunction with the statutory definition for “agricultural enclave” in §163.3164(4), Fla. Stat. In particular, subsection (c) which provides for an analysis of uses “surrounded on at least 75 percent of its *perimeter*.” Like “surround,” the term “perimeter” is not defined in either §163.3162 or § 163.3164. The ordinary meaning of the term “perimeter” can be gleaned from its dictionary definition. Merriam-Webster’s Dictionary defines “perimeter” as “the outside edge of an area or surface” and “the boundary of a closed plane figure.”<sup>4</sup>

“Where possible, courts must give full effect to *all* statutory provisions and construe related statutory provisions in harmony with one another.” *Forsythe v. Longboat Key Beach Erosion Control Dist.*, 604 So. 2d 452 (Fla. 1992) (emphasis in original). Applying this principle of statutory interpretation in the instant case, the analysis of surrounding uses and intensities of uses for purposes of reviewing a comprehensive plan amendment for an “agricultural enclave” should be limited to the uses and intensities of uses of the properties on the perimeter of the property. This achieves consistency between the analysis of whether a property meets the definition of “agricultural enclave” in order to provide it the protections of the Act (§163.3164(4) Fla. Stat.), and its redevelopment pursuant to the Act (§163.3162(4)). It harmonizes the protection for properties designated as “agricultural enclave” to change to non-agricultural uses, and the protections of the surrounding properties and areas directly affected by the agricultural enclave from being subjected to urban sprawl.

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<sup>3</sup> <http://www.merriam-webster.com/dictionary/surround>

<sup>4</sup> <http://www.merriam-webster.com/dictionary/perimeter>

Moreover, it prevents arbitrary interpretations from being applied inconsistently statewide. For example, an agricultural enclave seeking to redevelop could manipulate the analysis of the uses and intensities of use of surrounding properties by expanding the radius of analysis in order to capture uses and intensities of uses an applicant prefers. Clearly, as one moves out from a property and the radius of analysis grows, so too can the diversities of uses and intensities of use. There is no guidance or basis for drawing an arbitrary line, such as 5 or 10 miles, or even further out.

### CONCLUSION

The intent of the Act as to “agricultural enclaves” is not to encourage development, but to protect owners of such properties in the event they desire to cease agricultural operations and alter the use of the property consistent with its neighbors. At the same time, it is clearly not the intent of the Act to foster urban sprawl. In that regard, the Town believes that the meaning of “surround” must be those properties that are on the perimeter of the parcel. This achieves consistency with the analysis of whether the property is an “agricultural enclave” with the analysis of the redevelopment protections for such property.

The time and attention of the Attorney General’s Office to this important matter is greatly appreciated. Should you require any additional information or have any questions, please do not hesitate to contact our office.

Respectfully submitted,

MICHAEL D. CIRULLO, JR.  
Town Attorney, Town of Loxahatchee Groves